Review of Statewide Uniform Child Support Guideline 2010

A REPORT TO THE CALIFORNIA LEGISLATURE

NOVEMBER 2010

ADMINISTRATIVE OFFICE OF THE COURTS

CENTER FOR FAMILIES, CHILDREN & THE COURTS

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JUDICIAL COUNCIL
OF CALIFORNIA

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Executive Summary

This report is prepared pursuant to California Family Code section 4054(a), which requires that, at least every four years, the Judicial Council review the Statewide Uniform Child Support Guideline to recommend appropriate revisions to the Legislature. Federal regulations (45 C.F.R. § 302.56) also require that each state review its guideline at least every four years. The primary purpose of this review requirement is to ensure that the guideline results in the determination of appropriate child support award amounts. Federal and state requirements additionally specify that the review must include an assessment of the economic data on child-rearing costs and a review of case data to analyze the application of the guideline and to ensure that deviations from the guideline are limited.

In January 2010, the Judicial Council, through a competitive bidding process, contracted with the Center for Policy Research (CPR) to provide technical assistance for California's child support guideline review. Federal and state requirements for review of the guideline were met through the following activities:

- Reviewing the economic studies underlying the existing California guideline formula;
- Conducting a literature review of studies estimating child-rearing expenditures, including the most recent economic evidence, and comparing the results of these studies with the parameters of the California guideline formula;
- Examining other economic factors considered in the guideline formula (e.g., the adjustment for low-income obligors);
- Examining California's and other states' treatment of medical support in the context of new federal medical support requirements (including the requirements pertaining to reasonable cost of medical support and cash medical support), health reform, and California's health-care delivery system and health-care costs;
- Collecting and analyzing case file data from a review of recently established and modified child support orders;
- Measuring how frequently the guideline is applied and deviated from, as well as the reasons for, amount of, and upward and downward direction of deviations;
- Analyzing parents' characteristics and circumstances in which support is established or modified;
- Adding context to the statistical results of case data analysis and improving interpretation through focused discussion groups with a broad cross-section of child support commissioners and stakeholder groups involved in child support issues;
- Seeking input from stakeholders about the comprehensiveness and fairness of the California guideline; and
- Comparing selected provisions of the California guideline and their application with those of other states' guidelines.

Background

California Guideline and Federal Regulations
The California Legislature adopted the Statewide Uniform Child Support Guideline (referred to generally throughout this report as the "guideline") in 1992. Prior to that time, California had a statewide minimum amount guideline and several county guidelines that judges could apply. The statewide guideline was adopted to comply with federal regulations for child support guidelines (see Fam. Code, § 4050). Federal regulations (45 C.F.R. § 302.56(a)) require states to establish by law or by judicial or administrative action one set of guidelines for setting and modifying child support award amounts. According to 45 Code of Federal Regulations part 302.56(f), a state guideline must provide a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award that would result from the statewide uniform guideline is the correct amount of child support to be awarded.

Overview of the California Guideline Formula
The California guideline considers all earnings and income of both parents because its premise is that both parents are responsible for supporting their children (Fam. Code, § 4053(b)). The core, basic formula for determining the amount of the child support order under the California guideline is based on the following factors:

- Each parent's net disposable income;
- The parents' total net disposable income;
- The number of children; and
- The percentage of time that each parent has primary physical responsibility for the children.

The California guideline provides for other adjustments to income, such as child support being paid for other children and other children being supported in the home. The guideline provides for adjustments to the support order amount, including adjustments for additional support, in cases involving factors such as uninsured health-related expenses, low-income obligors, and work-related child-care expenses.

Proceedings for Establishing or Modifying Child Support Orders
California superior courts establish and modify child support orders. Certain child support orders—those established or modified pursuant to part D of Title IV of the Social Security Act (commonly referred to as the "IV-D program")—are established within California's child support commissioner system (Fam. Code, § 4250). Under Title IV-D, a local department of child support services (DCSS) can file petitions to establish parentage, obtain and collect child support, obtain and enforce health insurance coverage for the child, and modify an order. IV-D services are automatically provided in cases where public assistance monies have been expended. IV-D services are also provided in non–public assistance cases at the request of a parent for a $25 fee.[1] The purpose of DCSS is to work with parents and guardians to ensure that

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[1] Federal law (Deficit Reduction Act of 2005, Pub.L. No. 109-171 (Feb 8, 2006) 42 U.S.C. § 1305 et. seq.) requires states to impose a $25 annual fee in non–public assistance cases.

children and families receive court-ordered financial and medical support. Through a network of 52 county and regional child support agencies DCSS serves approximately 1.8 million children. Services include locating a parent; establishing paternity; establishing, modifying, and enforcing a court order for child support; and establishing, modifying, and enforcing an order for health-care coverage. The federal government and, in part, states fund the IV-D program.

In California, the local DCSS files the initial complaint in IV-D program cases in the name of the county in which the application for Title IV-D services is made. The attorney for the local child support agency does not represent the custodial parent; instead, the custodial parent is named as a party to the order once the order is established. Either parent can apply for Title IV-D services and/or use the IV-D program to request a modification, including an obligor who is seeking a downward modification.

Child support commissioners hear all support actions (child and spousal) and paternity actions filed by the local DCSS. The commissioner's duties include taking testimony, establishing a record, evaluating evidence, making decisions or recommendations, and entering judgments or orders based on stipulated agreements. Family law facilitators are attorneys employed by the court and available to assist either parent with child support or other family law issues in cases heard by commissioners. For example, family law facilitators provide parents with educational materials, distribute and help complete necessary court forms, and prepare guideline calculations. However, this interaction between facilitators and parents does not create an attorney-client relationship.[2]

"Non-IV-D cases" are those in which child support orders are established and modified outside the commissioner system. A number of large and medium-sized counties have dedicated family law courts to hear cases involving child support or other family law issues (e.g., custody, visitation, dissolution of marriage, and domestic violence). The role of these courts in hearing child support cases is to take testimony, establish a record, evaluate evidence, make decisions as to support, enter judgment or orders, and approve stipulated agreements between parties. Under Family Code section 4065, the parties to a child support order may stipulate to an amount of support, provided the court finds that the parties have been informed of their rights, that the parties were not coerced into agreeing to the stipulation, and that the agreement is in the best interest of the children.

Previous Reviews and Recommendations
The 2010 review is the fourth conducted by the Judicial Council.[3] Prior reviews have been instrumental in helping effect changes in the statewide uniform guideline. Specifically, the most recent review, conducted in 2005, suggested continued monitoring and refinement of certain

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[2] Fam. Code, § 10013.

[3] See Judicial Council of Cal., *Review of Statewide Uniform Child Support Guideline* for 1998, 2001, and 2005. Available at *www.courtinfo.ca.gov/programs/cfcc/resources/publications/articles.htm#childsupport*.

adjustments, deductions, and additional support for other factors such as child care but no changes to the basic guideline formula.

The most recent significant changes affecting the guideline concerned changes to the low-income adjustment and presumption of income. In August 2003, the Legislature changed the low-income adjustment provision to make a rebuttable presumption that any obligor qualifying for the low-income adjustment should be granted the low-income adjustment (set out in Fam. Code, § 4055(b)(7) at net income below $1,000 per month). Previously, the court had to justify granting the low-income adjustment by indicating in writing or on the record the reason for granting the adjustment. In August 2004, the Legislature changed the provision regarding the presumption of income (set out in Fam. Code, § 17400(d)(2)) to set presumed income at 40 hours per week at minimum wage.

Data and Analytical Methodology

Assessment of the Economic Cost of Child Rearing

The assessment of the economic cost of child rearing included a review of the principles underlying state guidelines, specifically the principle related to the cost of raising children; a literature review of the studies of child-rearing expenditures underlying state guidelines and the studies that contained more current estimates; and developing new estimates of child-rearing expenditures from the most current expenditure data available (i.e., up to the first quarter of 2009 in the Consumer Expenditures Survey conducted by the Bureau of Labor Statistics). This was deemed necessary because the extant studies did not include data for the years after the economic recession began in December 2007 or were known to overstate actual child-rearing expenditures. In all, eight studies of child-rearing expenditures were identified and then compared to elements of the California guideline formula (e.g., percentage of income allocated to child-rearing expenditures, multipliers for two or more children). Other factors that affect state guideline differences were identified through the focus groups and the literature reviewed and then were analyzed. The amounts under the California guideline were compared to those of other states to illustrate some points. All calculations were based on automated guideline calculators from a state agency or court Web site.

Case File Review

A random sample of 1,226 child support orders entered in 2008 was drawn to analyze how the guideline is being applied and to what extent and why deviations occur. The sample spanned the same 11 study counties as in the last review. The counties range in size and socioeconomic factors to reflect the diversity of California. The sample included almost equal shares of IV-D and non-IV-D cases. To aid our analysis, the preliminary findings were shared in two focus groups with representatives of advocacy groups and commissioners of the study counties.

Additional Analysis of Low-Income Families

The analysis consisted of a literature review of low-income noncustodial parents and a review of each state's guideline. The low-income adjustment, minimum order, self-support reserve, income

attribution provision, and other information were noted for each state guideline and later categorized to determine how many states used certain approaches. The reviews were supplemented with a comparison of state guideline amounts for four low-income case scenarios. When available, automated guideline calculators from a state agency or court Web site were used to make the calculations; otherwise, the calculations were performed manually.

Additional Analysis of Medical Support

Each state's guideline was reviewed to determine what changes were made, if any, to conform to the 2008 federal medical support requirements. We also reviewed recent information about health reform and health-care costs in California. Information from recent medical support demonstration grants, the federal Office of Child Support Enforcement, and conference presentations of professional child support organizations was also examined.

Focus Groups With Stakeholders

Three focus groups with stakeholders were conducted. The first two focus groups (one held in Northern California and the other in Southern California) gathered stakeholders' perspectives on the comprehensiveness and fairness of the guideline as well as recommended improvements. Stakeholders participating in the third focus group reviewed preliminary findings of the case file review and shared their insights to add context and interpretation to the analysis. In all, CPR identified 48 individuals representing various groups. Participants received e-mail invitations to attend the focus group taking place in their region, followed by faxed invitations and telephone calls to increase the number of invitees confirming attendance. Not more than 15 invitees showed up for any one focus group.

CPR developed interview guides for the focus groups. For some questions, a round-robin approach was used to engage all focus group participants. A short survey was also administered in the first two focus groups. The focus groups were audiotaped and transcribed. Meeting notes and transcriptions were used to identify common themes.

Conclusions

Conclusion 1: *The California guideline and 36 other state guidelines are based on a "continuity-of-expenditures model"— that is, the child support award should allow the children to benefit from the same level of expenditures that would have been provided had the children and both parents lived together.* State guidelines based on this concept apply it equally to children of divorce and children of unmarried parents, regardless of whether the parents ever lived together, because most states believe that children should not be the economic victims of their parents' decisions to live apart. Most of these states, including California, base their guideline formulas on measurements of child-rearing expenditures in intact families and periodically assess their formulas against newer measurements to ensure that they produce an adequate amount.

Conclusion 2: The California guideline formula is generally within the range of measurements of child-rearing expenditures—but at the high end of the range of measurements of child-rearing expenditures. This assessment is based on comparisons of the California guideline to eight measurements of child-rearing expenditures, including those that underlie other state guidelines and current measurements.

Conclusion 3: Many other assumptions and factors besides measurements of child-rearing expenditures form a guideline formula. These include how the guideline formula adjusts for higher income, obligee income, and shared physical responsibility, as well as the use of gross or net income as the guideline basis. California's approach to some of these factors creates some anomalies and differences from other state guidelines in certain circumstances, but they are generally limited or inconsequential.

Conclusion 4: The percentage of orders that deviated from the guideline has increased. The 2010 study found guideline deviations in 15 percent of the cases reviewed. Commissioners and stakeholders attribute the increase to the economic recession and better-educated parents.

Conclusion 5: Commissioners and advocates agreed that the current low-income adjustment is inadequate. Fifteen percent of the obligors in the case file review had incomes below $1,000 net per month and so were eligible for the low-income adjustment. Despite increases in the minimum wage, this is the same percentage of obligors who were eligible during the last review. It is indicative of the economic distress that many parents currently face as a result of high rates of under- and unemployment and the lack of even low-paying jobs.

Conclusion 6: Many of the guideline factors designed to yield more responsive orders are being applied very infrequently. A hardship deduction is being made to the incomes of only 4 percent of the parents. Orders for additional support also are infrequent. Orders for work-related child-care expenses are applied in 12 percent of the cases, and orders for uninsured health-care costs are applied in 18 percent of the cases. Other adjustments to income and orders for other additional support are applied even less frequently. Commissioners attribute these trends to the economic downturn, a higher rate of default orders, and a smaller proportion of modified orders in the sample.

Conclusion 7: The percentage of orders entered through default, 46 percent, is back up. This is after a concerted effort several years ago to lower the number of orders entered by default in California.[4]

Conclusion 8: The percentage of orders involving presumed income has increased since the last guideline review. The percentage of orders with income imputation, however, has not increased. State statute requires that income be presumed in IV-D cases when the obligor's income or

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[4] As discussed in Chapter 4 of the report, default orders are correlated with nonpayment. The general premise is that payments will be higher when parents are engaged in the order establishment or modification process.

income history is unknown. State statute provides that income can be imputed in any child support case (regardless of IV-D status) based on the parent's earning potential.

Conclusion 9: *Health insurance is frequently ordered, and medical support is ordered in most IV-D cases.* The latter is important because of new federal medical support rules that became effective in 2008.

Conclusion 10: *Information is frequently missing from case files.* Critical information was missing in many child support cases reviewed for this study. Ten percent lacked documentation of the calendared child support court event; 19 percent did not contain information on the parents' income; 9 percent lacked information on the child support order; and 22 percent did not specify the guideline amount.

Conclusion 11: *Historically, many IV-D families and obligors have poverty or low incomes. The current high unemployment and underemployment rates likely contribute to even higher incidences of poverty and low income than were previously documented.* This review considers how other states address low-income parents and how poverty and low income create special circumstances that need to be addressed when determining appropriate child support amounts.

Conclusion 12: *When child support obligations are set too high for low-income obligors, they are unable to meet their own subsistence needs.* This leads to many severe consequences: a reduced incentive to work and to work in the mainstream economy; depressed child support payments; higher arrears balances; and attenuated parent-child relationships, which in turn, can adversely affect child outcomes.

Conclusion 13: *The California guideline amounts for low-income obligors are high relative to other states. The low-income adjustment under the California guideline is inadequate.* Unlike the low-income adjustment used in many state guidelines, it does not relate to the federal poverty guideline for one person. Its income threshold (i.e., the low-income adjustment applies when obligor net income is less than $1,000 per month) has never been updated. The income threshold is too low to apply to typical low-income situations (i.e., obligors earning minimum wage); hence these low-income obligors are not eligible for the low-income adjustment, and payment of the unadjusted guideline amount leaves the obligor with insufficient income to live above poverty level.

Conclusion 14: *California's income presumption policy exacerbates the guideline problems for low-income parents; the obligor's income is often presumed to be more than it actually is or job opportunities available for obligors are presumed to pay more than they actually do.* Family Code section 17400(d)(2) provides that if a support obligation is being established by the local child support agency and the obligor's income or income history is not known, income is presumed at minimum wage for 40 hours per week. Presuming income above an obligor's actual income can produce a much higher order than the amount that would have resulted had the guidelines been applied to the parent's actual income.

Conclusion 15: *Although the 2008 federal medical support rules impose many new requirements on states—including state provisions for the establishment and modification of medical support—2010 health reform will likely change future federal medical support requirements.* The federal Office of Child Support Enforcement (OCSE) is currently assessing whether current federal medical support policies are congruent with 2010 health reform. They anticipate changes, but the scope of those changes is currently unknown.

Conclusion 16: *California statute already provides that either or both parents can be ordered to provide insurance coverage for the children and that orders allocate the child's uninsured health-care expenses between the parents.* The 2008 federal medical support rule that applies directly to state guidelines mandates that a state guideline provide for how the child's health-care needs will be addressed.[5] This encompasses orders for one or both parents to carry insurance for the child, orders for how the child's uninsured health-care expenses will be allocated between the parents, and other types of medical support.

Conclusion 17: *California statute currently does not provide an income-based definition of "reasonable cost" but does address what is "accessible" health-care. Although not called "cash medical support" (and states are not required to use the federal term), California's provision of reasonable uninsured health-care expenses is a form of cash medical support.* To assist with the implementation of the 2008 federal medical support rule that requires IV-D agencies to petition for health insurance that is reasonable in cost and accessible to the child and/or "cash medical support," many states are including definitions of "reasonable cost," "accessible," and "cash medical support" in their guidelines. The 2008 federal rule provides for considerable state discretion in these definitions; however, the reasonable cost definition must be income based.

Conclusion 18: *The California guideline adjusts for the child's health insurance differently than most state guidelines. While most states prorate the child's share of the insurance premium between the parents, California subtracts the insurance premium from the parent's income.* Depending on which parent pays the premium, the support award is increased or decreased by the other parent's share. States that have recently replaced the subtraction method for the proration method find that the subtraction method was not a sufficient adjustment for skyrocketing premiums and that the proration method is easy and fair.

Conclusion 19: *Focus group discussions among advocates reveal that parents frequently fail to comprehend what goes into the guideline calculation and need more education to improve their understanding.* Advocates suggest that parents receive more education so that they better understand the factors that go into the guideline calculation. They believe that parents who do not understand the guideline sometimes distrust the calculation and/or resent the system.

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[5] 45 C.F.R. § 302.56(3).

Conclusion 20: *Advocates who attended the focus groups consistently believed that the guideline is unfair to low-income parents.* Many advocates expressed concern about how the guideline treats low-income parents, and low-income noncustodial parents in particular.

Conclusion 21: *Many of the advocates' issues concerned systematic issues involving the guideline or were beyond the scope of the guideline.* Advocates participating in the focus groups saw the guideline as interrelated and inseparable from other family law issues, including custody and court and agency rules and procedures. In all, advocates believed these interrelated issues create parental conflict that is harmful to child well-being.

Recommendations

Recommendation 1: *Update and/or modify the low-income adjustment in the guideline.* The current guideline provides for a low-income adjustment when the obligor's net income is below $1,000 per month. The $1,000 threshold has never been updated and, unlike most low-income adjustments in other state guidelines, it does not relate to the federal poverty guidelines for one person or full-time minimum wage earnings. Moreover, it is inadequate, and research findings suggest that it inadvertently could reduce the obligor's incentive to work in the legitimate economy, pay support, and maintain contact with the child, potentially resulting in other adverse effects on child outcomes.

Recommendation 2: *Evaluate the current income attribution policies.* This includes codifying case law on income imputation and reviewing the existing income presumption provision to determine if it continues to be consistent with the legislative principles regarding child support.

Recommendation 3: *Educate stakeholders and equip them with information so they can make the current system work better. In addition, develop strategies to engage stakeholders and encourage their active participation in the child support process.* Involvement and education have ripple effects. When parents understand the guideline better, they are more engaged in the child support process, are more forthcoming with information, know when and how to seek modification, and can understand and use the guideline provisions for unique situations when appropriate.

Recommendation 4: *Adopt any necessary conforming changes so that California can meet the 2008 federal medical support rules, but also recognize that 2010 national health reform may produce changes to the federal rules in the future as well as changes in how states approach medical support.* For the most part, California has the statutory framework needed to meet the 2008 federal medical support rules. One possible exception is that California statute does not provide an income-based definition of reasonable cost of insurance.

Recommendation 5: *Encourage better and more detailed information in the case file.* Income information, order amounts, guideline amounts in orders with deviations, and some other pertinent information were missing in a notable number of case files. For some parents, this is

the only record they have of the basis of the order. If a parent ends up needing a modification, it is important that the file contain a complete record of how the court arrived at the original order amount.

CHAPTER I

Introduction

Purpose of the Study

This report is prepared pursuant to the California Family Code section 4054(a), which requires that, at least every four years, the Judicial Council review the Statewide Uniform Child Support Guideline to recommend appropriate revisions to the Legislature. Federal regulations (45 C.F.R. § 302.56) also require that each state review its guideline at least every four years. The primary purpose of this review requirement is to ensure that the guideline results in the determination of appropriate child support award amounts. Federal and state requirements additionally specify that the review must include an assessment of the economic data on child-rearing costs and a review of case data to analyze the application of the guideline and to ensure that deviations from the guideline are limited.

The California Guideline and Federal Regulations

The California Legislature adopted the Statewide Uniform Child Support Guideline (referred to generally throughout this report as the "guideline") in 1992. Prior to that time, California had a statewide minimum amount guideline and several county guidelines that judges could apply. The statewide uniform guideline was adopted to comply with federal regulations for child support guidelines (see Fam. Code, § 4050). Federal regulations (45 C.F.R. § 302.56(a)) require states to establish by law or by judicial or administrative action one set of guidelines for setting and modifying child support award amounts. According to 45 Code of Federal Regulations, part 302.56(f), a state guideline must provide a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award that would result from the statewide guideline is the correct amount of child support to be awarded.

Federal regulations (45 C.F.R. § 302.56(c)) further specify that a state guideline must:

- Take into consideration all earnings and income of the noncustodial parent;
- Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and
- Provide for children's health-care needs, through health insurance coverage and/or through cash medical support in accordance with part 303.31.

The last provision refers to a requirement that state child support agencies petition for cash medical support when establishing or modifying a child support order. It was added to the federal requirement in 2008.

In addition, federal regulations require each state to determine criteria that would permit rebuttal of the presumptive guideline where its application would be unjust or inappropriate and not in the child's best interest.

Guideline Calculation

Income Used in the California Guideline

The California guideline considers all earnings and income not only of the noncustodial parent but of both parents, because its premise is that both parents are responsible for supporting their children (Fam. Code, § 4053(b)). This obligation, however, does not extend to the parents' new spouses. In fact, the California guideline provides that the income of an obligor parent's subsequent spouse or nonmarital partner shall not be considered when determining or modifying child support (Fam. Code, § 4057.5(a)(1)).

Description of the Numeric Formula

The core, basic formula for determining the amount of the child support order under the California guideline is based on the following factors:

- Each parent's net disposable income;
- The parents' total net disposable income;
- The number of children; and
- The percentage of time that each parent has primary physical responsibility for the children.

The California guideline provides for other adjustments to income, such as child support being paid for other children and other children being supported in the home. The guideline provides for adjustments to the support order amount, including adjustments for additional support, in cases involving factors such as uninsured health-related expenses, low-income obligors, and work-related child-care expenses.

More specifically, Family Code section 4055(a) provides that the statewide uniform guideline for determining child support orders is:

$$CS = K[HN - (H\%)(TN)]$$

where *CS* means the "child support" amount determined by the formula to be payable for one child. *CS* is multiplied by an incremental variable for every additional child. The factors are shown below.

1.6 for 2 children	2.0 for 3 children	2.3 for 4 children
2.5 for 5 children	2.65 for 6 children	2.75 for 7 children
2.813 for 8 children	2.844 for 9 children	2.86 for 10 children

K stands for the amount of both parents' net income allocated to child support as calculated using the steps in this paragraph. Another variable in the formula, *H%*, is used to calculate *K*. *H%*

stands for the amount of time the high earner has primary physical responsibility for the children as compared to the other parent. When parents have different time-sharing arrangements for different children, *H%* stands for the average of the approximate percentage of time the high earner spends with each child. If *H%* is less than or equal to 50 percent, then *K* is calculated by adding 1 to the *H%* and then multiplying by the relevant *K*-fraction from the box below. If *H%* is greater than 50%, *K* equals 2 minus *H%* multiplied by the pertinent *K*-fraction:

Total net disposable income per month	*K*-fraction
$ 0–$800	0.20 + *TN*/16,000
$801–$6,666	0.25
$6,667–$10,000	0.10 + 1,000/*TN*
Over $10,000	0.12 + 800/*TN*

None of these income ranges or *K*-fractions have been updated since the guideline was developed.

HN (bold) stands for the net monthly disposable income of the high earner between the two parents.

H% (bold) is defined above.

TN stands for the parents' total net disposable income.

An example is illustrated in Exhibit 1-1.

Exhibit 1-1: Illustration of California Formula Calculation: One Child			
	High Earner	**Low Earner**	**Total**
Net disposable income per month	$4,000 (***HN***)	$1,000	$5,000 (*TN*)
Amount of time higher earner has with the child	20% (***H%***)		
K-fraction	0.25		
K= *k*-fraction x (1 + *H*%)	(*K*) =0.30 = 0.25 x (1 + 0.20)		
Child Support *CS* = *K*[*HN* - (*H%*)(*TN*)]	(*CS*) = .30 [4,000 – (.20)(5,000)] = .30 [4,000 – 1.000] = .30 [3,000] = $900		

Children's Health-Care Needs

The California Family Code provides for children's health-care needs in several sections, including section 4062, which provides for reasonable uninsured health-care costs for children, and section 3751 et seq., which establishes criteria for ordering health insurance coverage for children.

Guideline Deviation Criteria

Family Code section 4057(b) provides deviation criteria in accordance with federal requirements. These criteria are listed in Chapter 3 as part of the discussion of results from case data analysis of guideline applications and deviations.

Proceedings for Establishing or Modifying Child Support Orders

California superior courts establish or modify child support orders. Certain child support orders—those established or modified pursuant to part D of Title IV of the Social Security Act (commonly referred to as the "IV-D program")—are established within California's child support commissioner system (Fam. Code, § 4250). Under Title IV-D, a local department of child support services (DCSS) can file petitions to establish parentage, obtain and collect child support, obtain and enforce health insurance coverage for the child, and modify an order. IV-D services are automatically provided in cases where public assistance monies have been expended. IV-D services are also provided in non–public assistance cases at the request of a parent for a $25 fee.[6] The purpose of DCSS is to work with parents and guardians to ensure that children and families receive court-ordered financial and medical support. Through a network of 52 county and regional child support agencies DCSS serves approximately 1.8 million children. Services include locating a parent; establishing paternity; establishing, modifying, and enforcing a court order for child support; and establishing, modifying, and enforcing an order for health coverage. The federal government and, in part, states fund the IV-D program.

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[6] See *supra* note 1.
[7] Fam. Code, § 10013.

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Activities of the 2010 Guideline Review

In January 2010, the Judicial Council, through a competitive bidding process, contracted with the Center for Policy Research (CPR) to provide technical assistance for California's child support guideline. Federal and state requirements for review of the guideline were met through the following activities:

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- Comparing selected provisions of the California guideline and their application with those of other states' guidelines.

Previous Reviews by the Judicial Council

The 2010 review is the fourth conducted by the Judicial Council.[8] The previous reviews also examined the most current economic evidence on child-rearing expenditures and analyzed case file data to determine how the guideline was being applied and the extent of deviation from the guideline. The economic evidence examined in these earlier reviews suggested that the California guideline formula resulted in appropriate amounts of child support. The analyses of case file data in these earlier reviews found that the guideline was, in general, being applied and that few orders deviated from the guideline.

Previous Recommendations

Prior reviews have been instrumental in helping to effect changes in the statewide uniform guideline. Specifically, the most recent review, conducted in 2005, suggested continued monitoring and refinement of certain adjustments, deductions, and additional support but no changes to the basic guideline formula. The 2005 review also included the following recommendations and conclusions:

- Research the impact of support orders among low-income families in concert with efforts by the courts, DCSS, and other state entities to assist low-income families;
- Increase or index the income threshold for applying the low-income adjustment;
- Use a calculation similar to that used for child-care expenses for the child's share of the health insurance premium;
- Clarify the hardship deduction (i.e., clarify guideline criteria to yield more consistent application); and
- Encourage better and more detailed information in the case file.

Significant Guideline Changes in the Last Decade

The Legislature has not made any major changes to the guideline since the 2005 review. The most recent significant changes affecting the guideline concerned changes to the low-income adjustment and presumption of income. In August 2003, the Legislature changed the low-income adjustment provision to make a rebuttable presumption that any obligor qualifying for the low-income adjustment should be granted the low-income adjustment (set out in Fam. Code, § 4055(b)(7) at net income below $1,000 per month). Previously, the court had to justify granting the low-income adjustment by indicating in writing or on the record the reason for granting the adjustment. In August 2004, the Legislature changed the provision regarding the presumption of income (set out in Fam. Code, § 17400(d)(2)) to set presumed income at 40 hours per week at minimum wage.

Organization of This Report

The remainder of this report consists of six chapters. The main purpose of Chapter 2, "Basis of Child Support Guidelines and Studies on Child-Rearing Expenditures," is to analyze the most

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[8] See *supra* note 3.

current economic evidence on the costs of child rearing. The chapter relates the economic evidence to the principles underlying state guidelines.

Chapter 3, "Guideline Application and Deviation: A Review of the Case Files," presents findings from the analysis of case file data. The purpose of the analysis is to examine how the guideline is applied by judicial officers around the state and to identify reasons that judicial officers may enter order amounts different from those based on the guideline. The chapter presents statistics on the frequency with which child support orders deviate from the guideline, the application of permissible adjustments to income, and other case and order characteristics.

Chapter 4, "Low-Income Parents and Child Support Guidelines," discusses the impact of child support on low-income parents. It compares California's computation of support awards for low-income parents to those of other state guidelines.

Chapter 5, "Medical Support Provisions," analyzes the application of the medical support provisions that affect orders to provide health insurance for the child and the child's uninsured medical expenses. The provisions include quantitative thresholds for determining whether medical support is reasonable in cost and the ordering of cash medical support. The analyses consider new federal medical support requirements and national health reform and compares California medical support provisions to those of other states.

Chapter 6, "Input From Stakeholders," summarizes stakeholders' perspectives of the guideline and recommendations for improving it. The stakeholders include a broad cross-section of groups involved in child support as identified in Family Code section 4054(f).

Chapter 7 presents conclusions and recommendations resulting from the 2010 review process.

This report is circulated for public comment from November 30, 2010 through January 28, 2011.

CHAPTER 2

Basis of Child Support Guidelines and Studies of Child-Rearing Expenditures

Most state guidelines, including California's, currently base their guideline formulas or schedules on measurements of child-rearing expenditures. Federal regulation (45 C.F.R. § 302.56(h)) and state statute (Fam. Code, § 4054(f)) require consideration of economic data on the cost of child rearing in a review of the guideline.[9] The intent is to ensure that state guidelines reflect current economic data.

The chapter discusses the use of child-rearing expenditures in state guidelines and new measurements of child-rearing expenditures. It assesses the adequacy and appropriateness of the California formula by comparing it to measurements of child-rearing expenditures and other states' guidelines. The discussion focuses on child-rearing expenditures in intact families because they form the basis of most state guidelines, but it also considers child-rearing expenditures in single-parent families and alternative cost estimates. In addition, the chapter discusses additional considerations and assumptions necessary to transform measurements of child-rearing expenditures into a workable guideline formula or schedule. It also provides an overview of alternatives to the principle that a state guideline should be based on measurements of child-rearing expenditures.

Child-Rearing Expenditures and State Guidelines

Most state guidelines are based on a "continuity-of-expenditures model"—that is, the child support award should allow the children to benefit from the same level of expenditures that would have been provided had the children and both parents lived together.[10] The practical result of this approach is that the guideline formulas are based on measurements of child-rearing expenditures in intact families. State guidelines based on this model apply it equally to children of divorce and children of unmarried parents, regardless of whether the parents ever lived together, because most states believe that children should not be the economic victims of their parents' decisions to live apart.

California identifies its guideline model as a specific type of continuity-of-expenditures model called "income shares." Thirty-seven states rely on the income shares model. The core difference between income shares guidelines and other continuity-of-expenditures guidelines is that the

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[9] The requirement states the "cost" of child rearing, but most states rely on measurements of expenditures because costs do not necessarily increase with income, particularly the cost of a child's minimum basic needs. The policy decision underlying all state guidelines is that the support award should be larger the more income the obligated parent has.

[10] Ingrid Rothe & Lawrence Berger, "Estimating the Costs of Children: Theoretical Considerations Related to Transitions to Adulthood and the Valuation of Parental Time for Developing Child Support Guidelines," *IRP Working Paper* (Univ. of Wisconsin Inst. for Research on Poverty, Apr. 2007).

income shares guidelines consider both parents' incomes in the calculation of support, whereas other continuity-of-expenditures guidelines (e.g., Wisconsin's) consider only the obligor's income.[11] As explained in the 1993 review of the California guideline,

> The California Guideline uses what is commonly called an "income shares" approach to the determination of child support. At its simplest, income shares means that the amount of money allocated to children in a guideline is based on a share of the income of both parents.

(Judicial Council of Cal., *Review of Statewide Uniform Child Support Guideline* (Dec.1993), p. 26.)

The premise of the income shares model is that the child is entitled to the same amount of expenditures as would have been allocated had the child and parents lived as an intact family and that each parent is responsible for his or her pro rata share of those expenditures. It clearly lays the foundation for basing the income shares guidelines on measurements of child-rearing expenditures in intact families.

All measurements of child-rearing expenditures underlying state guidelines are estimates and are derived from national surveys of family expenditures. Economists cannot precisely measure actual child-rearing expenditures because many items are jointly consumed by parents and children (e.g., electricity for the home). This limitation is overcome through estimation methodologies. Differences in methodologies, however, produce a range of estimates of child-rearing expenditures. A 1990 report commissioned by the U.S. Department of Health and Human Services recommends gauging the adequacy of a state's guideline amounts by comparing them to the lower bound of estimates of child-rearing expenditures.[12] State guidelines amounts above the lower bound are adequate. The same study also compares state guidelines to the upper bound of the estimates of child-rearing expenditures. Any guideline amount between the lower and upper amount is deemed to be an appropriate amount. The study's approach set the precedent for how California and other states determine the adequacy and appropriateness of their state guideline.

Findings From Last Review

During the last review of the California guideline, the California formula percentages were compared to current measurements of child-rearing expenditures as well as older measurements that form the basis of other state guidelines and the California guideline. The last review found that the California formula generally fell within the range of estimates of child-rearing expenditures but at the higher end of the range. This finding is congruent with one of the legislated principles of the California guideline (Fam. Code, § 4053(l)), which identifies California's higher cost of living as a reason that the California guideline may be higher than other state guidelines.

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[11] *Ibid.*

[12] Lewin-ICF, *Estimates of Expenditures on Children and Child Support Guidelines* (U.S. Dept. of Health & Human Services, 1990).

Comparisons for the 2010 Guideline Review

This review compares the California guideline to current measurements of child-rearing expenditures, as well as to older measurements that form the basis of current state guidelines. Five older studies form the basis of current state guidelines. They include measurements of child-rearing expenditures developed by:

- Dr. Jacques van der Gaag, an economist with the University of Wisconsin Institute for Research on Poverty, for the state of Wisconsin in 1981;[13]
- Dr. Thomas Espenshade, an Urban Institute economist, through a U.S. Department of Health and Human Services grant in 1984;[14]
- Professor David Betson, University of Notre Dame, through the University of Wisconsin Institute for Research on Poverty, for the U.S. Department of Health and Human Services in 1990;[15] and
- Dr. Mark Lino, an economist with the U.S. Department of Agriculture in 2002;[16] and
- Professor David Betson, University of Notre Dame, in part for the states of California and Michigan.[17]

Three new studies of child-rearing expenditures have been conducted since California last reviewed its guideline. They include measurements of child-rearing expenditures developed by:

- Professor David Betson, University of Notre Dame, for the state of Oregon in 2006;[18]
- Professors Thomas McCaleb, David Macpherson, and Stefan Norrbin, Florida State University, for the state of Florida in 2008;[19] and
- Dr. Mark Lino, an economist with the U.S. Department of Agriculture (USDA) in 2009.[20]

A fourth study, as discussed in Appendix A and in greater detail below, was also conducted for this review. It consists of new Rothbarth measurements, which are considered the lower bound of child-rearing expenditures, based on data from families surveyed in 2004 through 2009. The purpose of updating the Rothbarth measurements is to include data since the current economic

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[13] Jacques van der Gaag, *On Measuring the Cost of Children*, Discussion Paper No. 663-81, (Univ. of Wisconsin Inst. for Research on Poverty, 1981).

[14] Thomas J. Espenshade, *Investing in Children: New Estimates of Parental Expenditures* (Urban Inst. Press, 1984).

[15] David M. Betson & Univ. of Wisconsin Inst. for Research on Poverty, *Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey* (U.S. Dept. of Health & Human Services, 1990).

[16] Mark Lino, *Expenditures on Children by Families: 2001 Annual Report,* Miscellaneous Publication No. 1528-2002 (U.S. Dept. of Agriculture, Center for Nutrition & Policy Promotion, 2002).

[17] David M. Betson, "Parental Expenditures on Children," ch. 5 in *Review of Statewide Uniform Child Support Guideline* (Judicial Council of Cal., 2001); Jane C. Venohr, Tracy E. Griffith & Policy Studies, Inc., *Report on the Michigan Child Support Formula* (Michigan Supreme Ct., Apr. 2002).

[18] David M.Betson & Policy Studies, Inc, "New Estimates of Child-Rearing Costs," appen. I in *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Consideration* (State of Oregon, May 2006).

[19] Thomas S. McCaleb, David A. Macpherson & Stefan C. Norrbin, *Review and Update of Florida's Child Support Guidelines* (Florida Leg., Nov. 2008).

[20] Mark Lino & Andrea Carlson, *Expenditures on Children by Families: 2008 Annual Report,* Miscellaneous Publication No. 1528-2008 (U.S. Dept. of Agriculture, 2009).

recession began in December 2007. An updated estimate at the low end of the range is more salient because families may spend even less because of the economic recession.

The most recent USDA study that reflects child-rearing expenditures in 2008, which is a recessionary year, serves as the upper bound.[21] Although the Florida study produced Engel estimates from families surveyed in 2004 through 2006 that were used to develop an updated schedule for Florida, the study did not publish the point estimates, and the Florida Legislature did not update the schedule.

Most of these studies measure the percentage of total family expenditures devoted to child-rearing expenditures. Economists generally equate family expenditures with after-tax income at low and middle incomes because families at these levels generally spend all their after-tax income and save little. The studies find that the percentage of total family expenditures devoted to one child ranges from 24 to 27 percent. Exhibit 2-1 compares these estimates to the California *K*-fraction for one child at low to middle incomes ($801 to $6,661 per month). The California *K*-fraction is 25 percent. The architects of the California guideline formula intended this amount to reflect the percentage of income devoted to child-rearing expenditures and therefore considered the Espenshade and van der Gaag studies when deriving this amount.

Exhibit 2-1. Comparisons of the California Guideline *K*-Fraction to Measurements of Child-Rearing Expenditures for One Child

Study	Percentage
California K-fraction for low to middle incomes	25%
van der Gaag (1981)	25%
Espenshade (1984)	24%
Betson-Rothbarth (1990)	25%
USDA (2002)	26%
Betson-Rothbarth (2002)	25%
Betson-Rothbarth (2006)	25%
USDA (2009)	27%
Betson-Rothbarth (2010)	24%
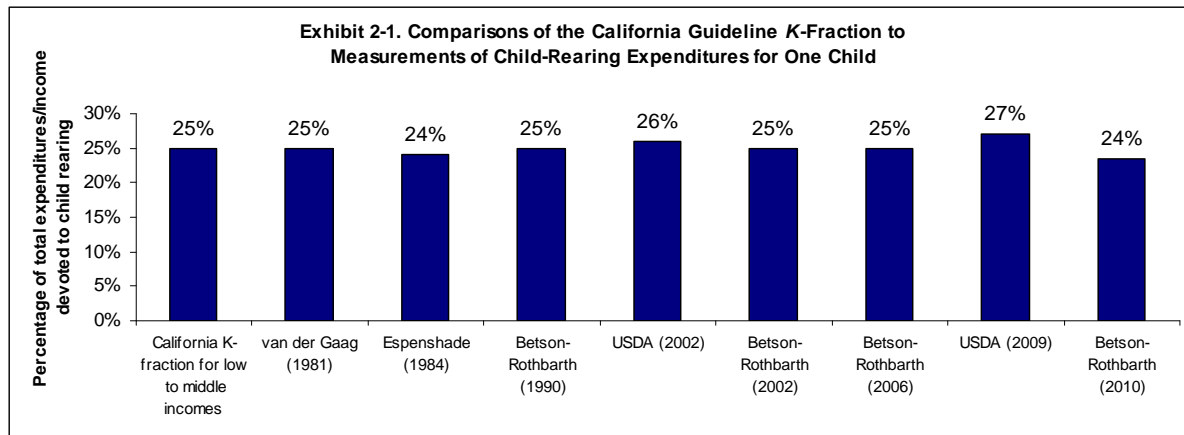
As evident in Exhibit 2-1, 25 percent is within the range of current estimates of child-rearing expenditures and those that form the basis of state guidelines. The range is 24 to 27 percent. A caveat to this finding is that these measurements are not identically comparable to the California *K*-fraction. These measurements include expenditures on work-related child care and the child's uninsured health-care expenses, which are additions to base support according to the California guideline. Excluding these expenses from the estimates of child-rearing expenditures would drop the percentages by a negligible amount to about 6 percentage points, so possibly as low as 18 percent of total expenditures is devoted to basic child-rearing expenditures (i.e., all child-rearing expenditures except child-care and uninsured health-care expenses for the children). This would

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[21] Traditionally, estimates based on the Engel methodology have been used as the upper bound, but the Engel estimator has fallen out of favor both at a practical level and for theoretical reasons. At a practical level, no state has updated its guideline using new Engel estimates. The theoretical issues are discussed in Appendix A.

place the California *K*-fraction of 25 percent above some of the estimates.[22] One of the underlying principles of the guideline (Fam. Code, § 4053(l)), however, recognizes that California's guidelines should be higher than those of other states because of California's relatively high cost of living. Indeed, in a comparison of state guidelines calculated for Florida's 2009 guideline review, California's guidelines consistently ranked as one of the highest.[23] In the six scenarios considered in the Florida guideline study, California ranked first, second (twice), third, fifth, and sixth highest.[24]

Exhibits 2-2 and 2-3 compare the California guideline multipliers for two and three children to the measurements of child-rearing expenditures. Since the measurements of child-rearing expenditures for two and three children are not expressed as multipliers, they are converted to comparable amounts. The ratio of the estimated percentage of total expenditures devoted to two children to the estimated percentage of total expenditures devoted for one child is used to convert a particular measurement of child-rearing expenditures to a multiplier for two children. A similar conversion is made for three children. Multipliers for four or more children are not computed because most of the studies did not measure child-rearing expenditures for larger families. There are too few large families in the Consumers Expenditures Survey (CE), which is the predominant data source used to measure child-rearing expenditures.

Exhibit 2-2 shows that the California guideline multiplier for two children, which is 1.6, is within the range of estimates for child-rearing expenditures. The estimated range varies from 1.4 to 1.7 for two children. Exhibit 2-2 shows the California guideline multiplier for three children, which is 2.0, is at the upper end of the range, which varies from 1.6 to 2.0 for three children.

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[22] The USDA measurements show that 24 percent of total expenditures are devoted to child care and health care (Lino & Carlson, *supra* note 20, at p. 11), including the out-of-pocket cost of the child's insurance premium. Using this percentage to reduce the 2009 USDA measurement would suggest that 21 percent of total expenditures are devoted to child-rearing expenditures when there is one child. A limitation to this is that it overstates the amount comparable to the California *K*-fraction if the intent of the *K*-fraction is to include the parent's cost of the child's insurance premium.

[23] McCaleb et al., *supra* note 19, at pp. 11–16.

[24] The Florida study did not identify the underlying case circumstances of each scenario (e.g., number of children and parents' incomes) other than they represented typical Florida cases and comprised a low-income IV-D case, a middle-income IV-D case, a high-income IV-D case, a low-income non-IV-D case, a middle-income non-IV-D case, and a high-income non-IV-D case.

Exhibit 2-2. California Multiplier for Two Children Compared to Multipliers Calculated From Estimates of Child-Rearing Expenditures

Values: 1.6, 1.5, 1.7, 1.4, 1.5, 1.4, 1.5, 1.5, 1.6

- California guideline
- van der Gaag (1981)
- Espenshade (1984)
- Betson-Rothbarth (1990)
- USDA (2002)
- Betson-Rothbarth (2002)
- Betson-Rothbarth (2006)
- USDA (2009)
- Betson-Rothbarth (2010)

Exhibit 2-3. California Multiplier for Three Children Compared to Multipliers Calculated From Estimates of Child-Rearing Expenditures

Values: 2.0, 2.0, 1.6, 1.8, 1.6, 1.8, 1.7, 1.9

- California guideline
- van der Gaag (1981)
- Betson-Rothbarth (1990)
- USDA (2002)
- Betson-Rothbarth (2002)
- Betson-Rothbarth (2006)
- USDA (2009)
- Betson-Rothbarth (2010)

Exhibits 2-2 and 2-3 illustrate just one way to compare the two- and three-child multipliers from the California guideline formula to measurements of child-rearing expenditures. As discussed above, the estimates of child-rearing expenditures were converted for comparative purposes in Exhibits 2-2 and 2-3 to multipliers similar to those in the California guideline formula. Another comparison method is to calculate pseudo-*K* values for two and three children and compare them to the estimated percentages of total expenditures devoted to two and three children. For example, the pseudo-*K* value for two children would be 0.40, which is 1.4 multiplied by the *K*-value for one child (0.25) for combined net incomes between $800 and $6,666 net per month.

Exhibits 2-4 and 2-5 provide these alternative comparisons. (They are similar to the comparisons presented in Exhibit 2-1.) Exhibit 2-4 compares the pseudo-*K* value for two children to the estimated percentage of total expenditures devoted to two children. Exhibit 2-5 shows a similar comparison for three children. Exhibit 2-4 shows that the guideline is within the range of estimated expenditures for two children but at the higher end of the range. Exhibit 2-5 shows a similar comparison for three children. Only one estimate for three children (i.e., the van der Gaag amount) is above the pseudo-*K* value for three children under the California guideline.

Exhibit 2-4. Estimated Percentages of Total Expenditures Devoted to Child Rearing Compared to *K*-Value for Two Children

- California guideline: 40%
- van der Gaag (1981): 38%
- Espenshade (1984): 41%
- Betson-Rothbarth (1990): 35%
- USDA (2002): 38%
- Betson-Rothbarth (2002): 35%
- Betson-Rothbarth (2006): 37%
- USDA (2009): 40%
- Betson-Rothbarth (2010): 37%

Exhibit 2-5. Estimated Percentages of Total Expenditures Devoted to Child Rearing Compared to *K*-Value for Three Children

- California guideline: 50%
- van der Gaag (1981): 56%
- Betson-Rothbarth (1990): 40%
- USDA (2002): 48%
- Betson-Rothbarth (2002): 41%
- Betson-Rothbarth (2006): 44%
- USDA (2009): 47%
- Betson-Rothbarth (2010): 45%

Based on the findings from the case file review that is reported in the next chapter, 65 percent of the cases cover one child, 26 percent of the cases cover two children, 7 percent of the cases cover three children, and 2 percent of the cases cover four or more children.

Detailed Summaries of the Economic Evidence

There are three different methodologies for measuring child-rearing expenditures that generally underlie state guidelines: the Engel estimator, the Rothbarth estimator, and the USDA approach. (Engel and Rothbarth are the economists who developed the estimators.) A 1990 report conducted for DHHS concluded that the Rothbarth estimates understate actual child-rearing expenditures and that the Engel and USDA methodologies overstate actual child-rearing expenditures.[25] The Engel and Rothbarth estimators are classified as marginal cost approaches because they both compare expenditures between two equally well off families: (1) a married couple with children, and (2) a married couple of child-rearing age without children. The difference in expenditures between these two families is attributed to child-rearing expenditures. To determine whether families were equally well off, the Engel methodology relies on food shares, and the Rothbarth methodology relies on expenditures for adult goods (specifically, adult clothes in the Rothbarth estimates that form the basis of state guidelines). The USDA measures actual child-rearing expenditures for two expenditure categories (i.e., clothing and the combined amount for child care and education) and adds those expenses to estimates of child-rearing expenditures for five expenditure categories (i.e., housing, food, transportation, health care, and miscellaneous expenses). The methodologies for measuring the expense of individual categories vary. Until 2008, the USDA measured the child's housing expenses based on a per capita calculation, assigning each household member an equal proportion of the total housing expenses. The USDA now uses the cost of an additional bedroom to estimate the child's housing expenses.

With the exception of the estimates produced by van der Gaag, all of the estimates of child-rearing expenditures were measured from the CE, which is conducted by the U.S. Bureau of Labor Statistics.[26] Beginning in 1980, the CE became an ongoing national survey of households regarding their expenditures. It consists of two components: an interview survey and a diary survey. Most economists use data collected from the interview survey to measure child-rearing expenditures. The CE tracks households participating in the interview survey for five consecutive quarters, with households rotating in and out each quarter. At any point of time more than 7,000 households participate in the interview survey. The CE considers expenditures on hundreds of items, making it the most comprehensive and detailed survey of expenditures available. The CE sampling design consists of a nationally representative sample and samples representative of the four major geographical regions of the country (i.e., the South, Northeast, Midwest, and West). The sampling design is not intended to capture representation of individual states.

A short summary of each estimate and its use in state guidelines follows. The summaries start with the oldest estimate (in part because it is the economic basis of the existing California formula) and end with the most recent estimate. More detail about the older estimates can be found in the 2005 guideline review report.[27] More information about the most current estimates (i.e., USDA (2008) and Betson (2010)) can be found in Appendix A.

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[25] Lewin-ICF, *supra* note 12.

[26] Detailed information about the CE can be found at the Bureau of Labor Statistics Web site at *www.bls.gov/CE*.

[27] Judicial Council of Cal., *Review of the Statewide Uniform Child Support Guideline 2005* (Mar. 2006), pp. 71–101.

van der Gaag (1981). Although published in 1981, these estimates still form the basis of several state guidelines, including those of California, New York, and Wisconsin.[28] Through the University of Wisconsin Institute for Research on Poverty, van der Gaag conducted a literature review of estimates of child-rearing expenditures available at the time. He found no consensus on the exact value of the cost of a child from the literature. To narrow the range, however, he determined that the true cost of one child was between 20 and 30 percent of a childless couple's net income and so suggested that 25 percent was an obvious point estimate.[29] He also estimated that the second child costs about half as much as the first child and that the third child costs about the same as the second child.[30] Nine of the 11 studies that van der Gaag reviewed found that the percentage of family income devoted to child-rearing expenditures decreases as income increases.[31]

Espenshade (1984). The Espenshade estimates form the basis of the prototype income shares guideline developed through the 1984–1987 National Child Support Guidelines Project.[32] They still form the basis of about eight state guidelines and were considered in the development of the current California guideline. Conducted through a DHHS grant, the Espenshade study used the Engel methodology to estimate child-rearing expenditures from the 1972–1973 CE. Espenshade did not provide point estimates of child-rearing expenditures as a percentage of income or total family expenditures in his study, but other researchers have calculated them from Espenshade's research. They find that the percentage of total family expenditures devoted to child rearing are 24 percent for one child and 41 percent for two children.[33] What Espenshade actually reported is a range of child-rearing expenditures for two-child families by socioeconomic class and other household characteristics.[34]

Betson (1990). Most states that updated their guidelines in the 1990s relied on Betson's estimates developed from the 1980–1986 CE using the Rothbarth estimator. Five states still base their guidelines on the 1990 Betson-Rothbarth estimates. Commissioned to fulfill a congressional mandate aimed at providing states with information that could be used to develop a statewide guideline, the Betson study actually used five different methodologies to measure child-rearing expenditures for this study. Betson concluded that the Rothbarth estimator was the most robust and therefore recommended its use for state guidelines. The 1990 Betson-Rothbarth estimates indicate that the percentages of family expenditures devoted to child rearing are 25 percent for one child, 35 percent for two children, and 40 percent for three children.[35]

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[28] The use of van der Gaag's estimates in California is obvious because the use matches the *K*-fraction. It is less obvious in New York and Wisconsin because those states factored in additional considerations.
[29] van der Gaag, *supra* note 13, at p. 21.
[30] *Id.,* at p. 24.
[31] *Id.,* at p. 21.
[32] Nat. Center for State Cts., *Development of Guidelines for Child Support Orders* (U.S. Dept. of Health & Human Services, 1987).
[33] Lewin-ICF, *supra* note 12, at pp. 4–19.
[34] Espenshade, *supra* note 14, at p. 67.
[35] Betson, *supra* note 15, at p. 57.

USDA (Lino 2002). The USDA releases new measurements of child-rearing expenditures annually. The 2002 USDA study forms the economic basis of the Minnesota guideline. Its estimates reflect child-rearing expenditures in 2001 but are based on the 1990–1992 CE.[36] No other state bases its guideline on the USDA estimates (from any study year); however, the recommendation ensuing from the last two reviews of the Ohio guideline was for a USDA-based schedule. It failed to be legislated. The USDA estimates indicate that the percentages of family expenditures devoted to child rearing in 2001 are 26 percent for one child, 42 percent for two children, and 48 percent for three children.[37]

Betson (2002). Betson updated his Engel and Rothbarth estimates in 2002 using more recent CE data (i.e., 1996–1998 CE). Eleven states still base their guidelines on the 2002 Betson-Rothbarth estimates. Georgia bases its guideline on the average of the 2002 Engel and Rothbarth estimates produced by Betson. The 2002 Betson-Rothbarth estimates indicate that the percentages of family expenditures devoted to child rearing are 25 percent for one child, 35 percent for two children, and 41 percent for three children.[38]

Betson (2006). Oregon commissioned a study in which Betson updated his Rothbarth estimates in 2006, this time using 1998–2003 CE data.[39] These estimates form the bases of 10 state guidelines. The 2006 Betson-Rothbarth estimates indicate that the percentages of family expenditures devoted to child rearing are 25 percent for one child, 37 percent for two children, and 44 percent for three children.[40]

McCaleb et al. (2008). To develop an updated schedule for consideration by the Florida Legislature, McCaleb et al. applied the Engel methodology to the 2004–2006 CE. Although they do not report their average estimates, they do report that their estimates are considerably lower than those of Espenshade and Betson.[41] Their report includes an appendix that partially explains why their results may be lower. The appendix, written by Paula Arce-Trigatti, summarizes her graduate thesis, which investigated the sensitivity of estimates of child-rearing expenditures to the specification of the estimation equation, the choice of variables included in the estimation equation, and the data series used in the estimation.[42] In the course of her analysis, Arce-Trigatti estimated child-rearing expenditures by applying the Engel and Rothbarth methodologies to 1999–2001 CE data and made slight variations to the sample selection and estimation equation. Although her estimates are not used to develop the proposed Florida schedule, they are reported in the most recent USDA report.[43] As of March 2010, Florida had not updated its schedule, and

[36] More information about how the USDA measurements were used and adjusted to develop the Minnesota guideline is provided in Jane Venohr & Policy Studies, Inc., *Evaluation of the New (2007) Minnesota Child Support Guideline Basic Support Schedule* (State of Minnesota, Dec. 2005).
[37] Lino, *supra* note 16, at p. 12.
[38] Venohr & Griffith, *supra* note 17, at p. 11.
[39] Betson, *supra* note 15, at p. 57.
[40] Venohr & Griffith, *supra* note 17, at p. 11.
[41] McCaleb et al., *supra* note 19, at p. 3.
[42] *Id.*, at pp. 47–55.
[43] Lino, *supra* note 20, at p. 19.

none of the estimates of child-rearing expenditures in this report form the basis of any state guideline.

USDA (Lino 2009). The 2009 USDA report, which measures child-rearing expenditures in 2008, makes several changes to the USDA measurements. The 2009 USDA study updates its underlying estimates to those calculated from the 2005–2006 CE. In addition, as discussed earlier, it changed its methodology for determining the child's housing costs. The 2008 USDA estimates indicate that the percentages of family expenditures devoted to child rearing are 27 percent for one child, 40 percent for two children, and 47 percent for three children.[44]

Betson (2010). For the purpose of this study—to determine the adequacy of the current California guideline formula— Betson updated his Rothbarth estimates to include more current CE data, from 2004 through 2009. Because the Rothbarth estimator is known to understate actual child-rearing expenditures, the Betson-Rothbarth estimates have been used historically to assess whether a state guideline is inadequate. (State guideline amounts below the Betson-Rothbarth estimates are considered inadequate.) Although Betson updated his Rothbarth estimates after California last reviewed its guideline, the estimates did not consider the current recession that began in December 2007, which marked changes to family income and expenditures. The most recent Betson-Rothbarth estimates indicate that the percentages of family expenditures devoted to child rearing are 24 percent for one child, 37 percent for two children, and 45 percent for three children. A detailed technical report of Betson's most recent findings is provided in Appendix A.

Limitations of the Estimates. No estimate is free of methodological issues or data limitations. As discussed in more detail in Appendix A as well as in most of the other studies,[45] each estimation technique has its own set of shortcomings. Until recently, the major limitation of the USDA was the per capita calculation of the child's share of total family housing costs. A major limitation of the Rothbarth estimator is that the CE definition of adult clothing actually captures clothing purchases for older children as well. Although Betson makes some data adjustments to correct for this, the household budget share devoted to adult clothing is critical because it is used as a proxy to identify whether households with and without children are equally well off. As discussed in detail in Appendix A-7, the Engel methodology essentially works (and functions as the upper bound of the range of child-rearing estimates) only when food composes the largest share of family expenditures. In actuality, however, housing constitutes the largest share of family expenditures.

Other Limitations of the Estimates. Other limitations exist because of variable definitions, the functional form of the estimating equations, and the criteria used for excluding cases from the analysis. Appendix A discusses major limitations and includes additional analysis to test the sensitivity of some of the assumptions used in the estimation. One of the major data issues is whether to use "expenditures" or "outlays." Based on the definition in Appendix A, "outlays" include expenditures plus principal payments on debt including home mortgage principal. The

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[44] Lino & Carlson, 2009, *supra* note 20, at p. 19.

[45] Lewin-ICF, *supra* note 12; Betson, *supra* note 15; Lino, 2009, *supra* note 20; McCaleb et al., *supra* note 19.

most recent Betson-Rothbarth and USDA measurements include payments on home mortgage principal, but earlier estimates did not. Both the Florida study and Appendix A consider alternative criteria for excluding cases from the analysis. In all, Betson reports that the assumptions he made in developing the latest Betson-Rothbarth estimates would tend to bias them downward (see Appendix A). This has consequences to the use of the Betson-Rothbarth estimates to assess the adequacy of state guidelines. Specifically, when a state guideline is below the Betson-Rothbarth estimates, the hypothesis that the state guideline is inadequate is appropriately accepted; however, when a state guideline is above the Betson-Rothbarth estimates, the hypothesis that the state guideline is inadequate could be inappropriately accepted.[46]

Additional Assumptions and Considerations

The measurements of child-rearing expenditures are just a starting point for developing a state guideline. Many other assumptions and factors are considered in deriving a workable guideline formula or schedule. This includes adjusting the measurements for four or more children, setting guideline amounts for upper incomes, and determining whether to use a gross- or net-income-based guideline. Some states may also adjust the measurements of child-rearing expenditures upward or downward depending on whether the state's cost of living is higher or lower than the national average. States also update measurements of child-rearing expenditures to current price levels when using them to develop a state guideline. States vary in the additional assumptions and considerations that they use to craft their guideline formulas and schedules. These different assumptions and considerations produce just as much variation in state guideline amounts as a state's choice of which measurement to use as the basis of its guideline formula or schedule.

Guideline Amounts for 4 or More Children

As discussed above, economists do not estimate child-rearing expenditures for larger families. Instead, many states rely on an equivalence scale developed by the National Research Council (NRC) to extend the measurements of child-rearing expenditures to 4 or more children.[47] Exhibit 2-6 compares the California guideline multipliers for 4 and more children to those computed from an Oregon report that relied on the NRC multiplier.[48] It shows that California multipliers are more than the implicit Oregon multipliers for 4, 5, 6, 7, and 8 children. For 9 children, they are about equal, and for 10 children, the implicit Oregon multiplier exceeds the California multiplier.

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[46] In other words, this analysis lends itself to Type II errors.

[47] Constance F. Citro & Robert T. Michael, *Measuring Poverty: A New Approach* (Nat. Academy Press, 1995).

[48] Policy Studies Inc., *State of Oregon Child Support Guidelines Review: Updated Obligation Scales and Other Considerations* (Oregon Dept. of J., May 2006), p. II-7.

Exhibit 2-6. California Multipliers for 4 and More Children Compared to Those Implied by the Oregon Guideline

	Multiplier (4 children)	Multiplier (5 children)	Multiplier (6 children)	Multiplier (7 children)	Multiplier (8 children)	Multiplier (9 children)	Multiplier (10 children)
California guideline	2.300	2.500	2.625	2.750	2.813	2.844	2.860
Oregon guideline (implied)	1.966	2.163	2.351	2.534	2.711	2.885	3.052

Guideline Amounts for Higher Incomes

The percentage of income devoted to child-rearing expenditures arguably decreases as income increases.[49] This is evident from the *K*-fraction in the California guideline. The *K*-fraction is 0.25 for one child when the combined net income of the parents is $800 to $6,666 per month but gradually decreases for incomes above $6,666 per month to about 0.12 at very high incomes. The architects of the California guideline intended for the *K*-fraction to reflect the percentage of income devoted to child-rearing expenditures for one child and assumed that the percentage of income devoted to child-rearing expenditures decreased as income increased.

To gauge whether the California guideline decreases at an appropriate rate, support awards under the California guideline are compared to those of Minnesota and Oregon. Minnesota bases its guideline on the 2002 USDA measurements of child-rearing expenditures. Oregon bases its guideline on the 2006 Betson-Rothbarth measurements of child-rearing expenditures. (As discussed earlier, the USDA estimates form the upper limit of the current range of estimated child-rearing expenditures used in state guidelines, and the Rothbarth estimator forms the lower limit of the range.) The comparison considers six scenarios where the following circumstances are constant: the obligor's gross income is $3,000 per month; there is one child; and the parent who is the higher earner has no shared physical responsibility for the child. Obligee income is the only assumption that changes in the six scenarios. The amounts of obligee incomes considered in the different scenarios are zero; $1,000; $3,000; $5,000; $7,000; and $9,000 per

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[49] Malcolm L. Smith et al. *2009 New Hampshire Child Support Guidelines Review and Recommendations* (New Hampshire Dept. of Health & Human Services, Mar. 2009), p. ii.

month. If the support awards decrease as obligee income increases, the guideline reflects that child-rearing expenditures as a percentage of income decline as income increases.

Exhibit 2-7 clearly demonstrates this outcome for the Oregon and Minnesota guidelines.[50] For example, the Oregon guideline amount decreases from $558 per month when the obligee has no income to $524 when the obligee's gross income is $1,000 per month; and when the obligee's gross income increases to $3,000 per month, the guideline amount decreases to $429 per month. The California guideline amount remains at $583 per month until the obligee's income surpasses $3,000 gross per month. This is because the combined net income of the parents finally pushes the case out of the income bracket where the *K*-fraction is 0.25. In effect, the California guideline formula plateaus when obligor income is constant and the combined income of the parents falls in the range where the *K*-fraction is 0.25. One caveat to this finding should be noted: The case examples assume that the parent with higher earnings has no shared physical responsibility (which, as shown in the findings from the case file review, is a somewhat common scenario, particularly in IV-D cases). When the higher earner has shared physical responsibility, the order amount will not plateau.

Exhibit 2-7. Comparison of California, Oregon, and Minnesota Gudeline Amounts for One Child When Obligee Income Increases and Obligor Income Remains the Same

Legend:
- Obligee income = $0/mo
- Obligee income = $1,000/mo
- Obligee income = $3,000/mo
- Obligee income = $5,000/mo
- Obligee income = $7,000/mo
- Obligee income = $9,000/mo

California: 583, 583, 583, 583, 550, 509
Oregon: 558, 524, 429, 358, 325, 302
Minnesota: 603, 549, 448, 395, 381, 381

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[50] The Minnesota guideline amounts for the two scenarios in which obligee income was the highest were the same. The reason for this anomaly is beyond the research scope of this study. The researchers calculated the Minnesota guideline amounts from the state's automated guideline calculator.

Income Basis of the Guideline: Gross Versus Net

Even though the measurements of child-rearing expenditures are generally expressed as percentages of total family expenditures, they are used in both net- and gross-income-based state guidelines. Gross-income guidelines include tax assumptions to convert the estimates of child-rearing expenditures to a gross-income basis. This effectively converts gross income to after-tax income. The California guideline (Fam. Code, § 4059) also effectively converts the gross to after-tax income.

The most common tax assumption used in gross-income guidelines is that all income, regardless whether it is earned by the obligor or obligee, is taxed as a single person with no dependents. This assumption tends to produce lower guideline amounts because the effective tax rate is higher when there are no dependents. The District of Columbia, however, made another assumption to convert estimated child-rearing expenditures, which were calculated as percentages of total expenditures, to a gross-income-based schedule. The District of Columbia schedule assumes that all after-tax income is spent (i.e., there are no savings, even at higher incomes) and that the tax situation is that of a married couple whose number of dependents is equivalent to the number of children for whom support is being determined. For example, the one-child amounts under the District of Columbia guideline were converted from the estimated percentage of total expenditures devoted to raising one child to gross income by assuming the tax rate of a married couple with one child. A key difference between the California provision for converting gross to net income and the gross to net income conversion underlying most states is that the California conversion allows for the obligee and obligor to have different tax scenarios (e.g., the obligee could be married and the obligor could be single). In contrast, gross-income guidelines that are based on estimated percentages of total expenditures devoted to child rearing must assume the same tax scenario for both parents in order to achieve a gross-income-based schedule. This nuance is particularly important for parents with subsequent spouses or other children. The current California approach captures tax differences because a subsequent spouse puts the parent in another income tax bracket, while the income standardization approach used by most states with gross-income-based guidelines would not.

Whether a state chooses to base its guideline on gross or net income is a policy decision. One merit of using gross income is that it does not require information about each parent's tax status and the amount of taxes actually paid. Another merit is that the award amount is the same for parents with identical gross incomes and case circumstances, even though one parent itemizes his or her tax deductions because that parent pays mortgage interest and the other parent rents and does not pay mortgage interest. Of course, this assumes that parents with identical gross incomes should be treated similarly. An alternative perspective is that parents with identical net incomes should be treated similarly. Under that perspective, net income would be favored. A merit of using net income is that it better reflects the actual amount of income that the parent has available to support his or her children.

California Housing Costs

Concerns about California's housing costs are multifaceted. Housing costs in California are more than the national average, they vary considerably by county, and they have recently plummeted during the economic recession. According to 2008 data (the most recent U.S. Census data available), median housing costs in California ($1,410 per month) are almost 50 percent higher than the national median ($970 per month).[51] Further, the range in California housing costs is illustrated by comparing the median housing costs of San Diego County, which are $1,510 per month, to those of Fresno County, which are $989 per month.[52]

Several other states have a mix of counties that vary in cost of living (e.g., Maryland and New York). This is generally true of any state with both a major city and rural areas. However, the federal requirement is for a "statewide" guideline. To this end, county differences in housing costs cannot be part of the presumptive guideline formula. It could, however, be a consideration for deviating from the guideline in cases where one or both parents' have extremely high or low housing costs.

Adjusting for Shared Physical Responsibility

State guidelines adjustments for shared physical responsibility are mostly based on policy decisions. There is little economic evidence showing how parents share child-rearing expenses in shared physical responsibility cases and no dataset that tracks expenditures of both the mother and the father who live in separate households but have a common child.[53] Unlike most state guidelines, California incorporates its adjustment for shared physical responsibility into its base guideline formula. One of the public comments during the last review was that the California formula produces too much of a precipitous adjustment at some levels. In addition, some participants of stakeholders' focus groups believe that shared physical responsibility creates conflict between parents. They suggested that a few more or fewer overnights with the other parent can substantially change the award amount.

To examine this, we compared guideline amounts adjusted by incremental differences in timesharing. Exhibits 2-8 and 2-9 depict changes in the California guideline amount resulting from incremental increases in the number of overnights the child is with the obligor. The guideline amounts start with 20 percent of the child's time with the obligor and then are adjusted in 5 percentage point increments (i.e., increments of about 1.5 more overnights per month). The exhibits also show the amounts under the Arizona and Oregon guidelines, which have shared physical responsibility adjustments that vary considerably from those calculated with the California formula. Exhibit 2-6 compares a case where the parents have equal incomes (i.e., $3,000 gross per month) and there is one child. Exhibit 2-7 compares a case where there is one

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[51] U.S. Census Bur. American Factfinder, "B25105. Median Monthly Housing Costs (Dollars) — Universe: Occupied Housing Units With Monthly Housing Costs," 2008 American Community Survey, *http://factfinder.census.gov* (as of Apr. 28, 2010).

[52] *Ibid.*

[53] Jane Venohr, "Behind Time-Sharing Adjustments in Child Support Guidelines," in *2006 Family Law Update,* ed. Ronald Brown & Laura Morgan (Aspen Publishers 2006).

child, the obligor's gross income is $3,000 per month, and the obligee's gross income is $2,000 per month.

Exhibit 2-8. Comparison of Adjustments for Shared Physical Responsbility (Case A: Parents have equal incomes)

Percentage of child's time with obligor	California	Oregon	Arizona
20 percent	403	429	341
25 percent	343	322	293
30 percent	276	257	293
35 percent	204	193	263
40 percent	125	129	167
45 percent	40	64	67
50 percent	0	0	0
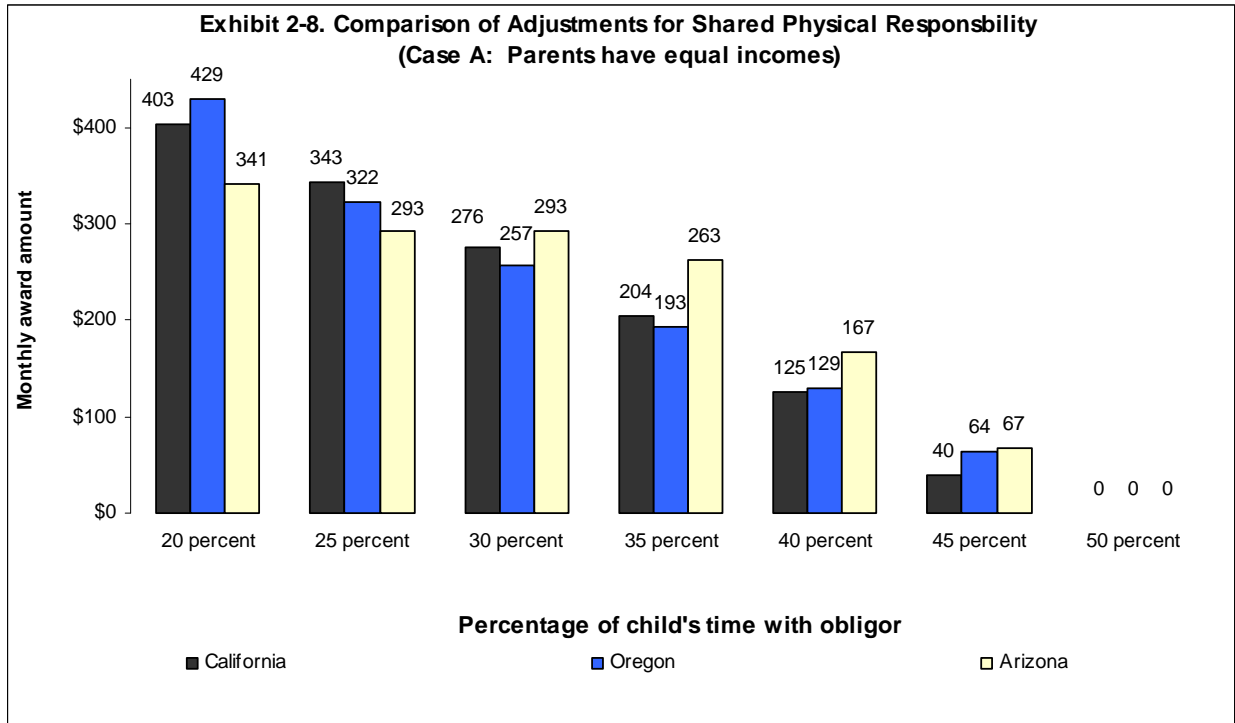
Exhibit 2-8 shows that the support award decreases by about $40 to $85 when the child's time with the obligor increases by 5 percent (i.e., about 1.5 days per month). The $40 drop occurs when the child's time with the obligor increases from 45 percent to 50 percent (i.e., the support award dropped from $40 at 45 percent timesharing to $0 at 50 percent timesharing). In general, however, the exhibits do not indicate that the California guideline produces any more precipitous drop to the support award than that resulting from the Oregon and Arizona guidelines. They show, however, that the Arizona guideline plateaus when the timesharing arrangement increases from 25 to 30 percent. The Arizona guideline amounts remain the same at these levels of timesharing. The Arizona adjustment is based on a sliding scale that applies to timesharing brackets; timesharing arrangements of 25 and 30 percent are within the same bracket, so the same adjustment applies.

Exhibit 2-9. Comparison of Adjustments for Shared Physical Responsbility
(Case B: Obligor gross income = $3,000; Obligee gross income = $2,000)

Percentages of child's time with obligor	California	Oregon	Arizona
20 percent	440	473	393
25 percent	390	414	349
30 percent	336	355	349
35 percent	276	296	322
40 percent	210	236	233
45 percent	140	177	141
50 percent	63	118	91

Monthly award amount (y-axis: $0 to $500)

■ California   ■ Oregon   □ Arizona

Alternative Measurements of Child-Rearing Costs

A recurring criticism of using measurements of child-rearing expenditures in intact families as the basis of state guidelines is that they do not capture the reality of each parent's and the children's current living situation and standard of living.[54] Although other measurements of child-rearing costs are available, none are used as the basis of any state's guideline for various reasons.

Expenditures in Single-Parent Families

No state bases its guideline on measurements of child-rearing expenditures in single-parent families. One reason is that an inordinate percentage of single-parent families live in poverty. Nearly 39 percent of California families with a female householder (no husband present) and related children under 18 years of age are below the poverty level.[55] Most states, including California, believe that the children should share in the standard of living afforded by the parents (see Fam. Code, § 4053(f)). This can be interpreted to mean that if a parent can afford to live above poverty, the children should also live above poverty.

The USDA provides the only recent study to consider child-rearing expenditures in single-parent families.[56] It finds that child-rearing expenditures in single-parent families generally follow a

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[54] The New Hampshire report provides a summary critique of the literature on this issue (Smith et al., *supra* note 49).

[55] Calculated from U.S. Census Bur. American Factfinder, "California: B17006. Poverty Status in the Past 12 Months of Related Children Under 18 Years By Family Type," 2006–2008 American Community Survey 3-Year Estimates, *http://factfinder.census.gov* (as of Mar. 30, 2010).

[56] Lino & Carlson, *supra* note 20.

similar pattern to those in two-parent families—that is, the amount of dollars expended on children increases as family income rises. The USDA study also compared expenditures in two-parent families and single-parent families. It found that 85 percent of single-parent families and 33 percent of two-parent families were in the lowest income range considered in the USDA study, which consisted of families with incomes below $56,870 per year in 2008 dollars. On average, child-rearing expenditures were 7 percent lower in single-parent families than in two-parent families. One reason that single-parent families in this income range may spend less is that they have lower average income than two-parent families in this income range.

Foster Care Payments

One participant in the stakeholder focus group suggested that California should base its guideline on child-rearing costs and further suggested that foster care payments may be a source of that information. California foster care rates vary by region, age of the child, care setting, and treatment. In 2008, the basic rates ranged from $427 to $635 per child per month.[57] The underlying source of these rates was beyond the research scope of this study.

Self-Sufficiency Standard

The "self-sufficiency standard" measures how much income working individuals and families need to pay for their basic needs. Developed through a Ford Foundation grant, the self-sufficiency standard is calculated for various states. No state bases its guideline amounts on the self-sufficiency standard, but it still informs state guideline reviews. Published in 2008, California's most recent self-sufficiency standard shows a large variation in income needs by county, family size, and child age.[58] For example, a family of two consisting of an adult and a school-age child requires a monthly wage of $2,481 per month in Siskiyou County and $3,515 per month in Santa Clara County. When compared to what is required for a single adult, this suggests that a school-aged child costs $942 per month in Siskiyou County and $1,162 per month in Santa Clara County.[59]

Alternative Bases of State Guidelines

Some policymakers believe that getting the measurement of child-rearing expenditures right is paramount.[60] They argue that measurements that fall short put children at risk of poverty or yield guideline amounts that do not appropriately allocate the economic responsibility for the children between the parents. Some also acknowledge that problems inherent in estimation methods and

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[57] California Dept. of Social Services, Children & Family Services Div., All County Letter No. 08-11 (Jan. 17, 2008).

[58] Insight Center for Community Economic Development, *How Much Is Enough in Your County* (May 2008).

[59] This is based on the difference between the self-sufficiency standard for one adult and the self-sufficiency standard for one adult and a school-aged child.

[60] In fact, the lack of agreement on which measurement was suitable for an update of the Washington guideline was why the committee charged with reviewing the guideline could not recommend how to update it even though it had not been updated for almost 20 years. (State of Washington Joint Legislative Audit & Review Com., *Review of Child Support Guideline: Proposed Final Report* (Jan. 2010).

data make a perfect measurement infeasible.[61] Still others believe that it is better to err on the side of the children and the custodial parent.[62] These limitations aside, several states simply acknowledge that their guidelines are partially based on economic data and partially based on policy decisions.[63] Further, some argue that the current approach to guidelines no longer equitably fits the child support caseload because of greater incidences of joint custody and multiple-partner fertility and an increasing proportion of never-married parents in the IV-D caseload. [64]

In general, state guideline solutions that adjust for low incomes and multiple-partner fertility are not based on measurements of child-rearing expenditures. In addition, if state guidelines were based on standard of living, as some advocate, they would not be based on measurements of child-rearing expenditures. Following is an overview of some of these approaches.

Low Incomes

As discussed in great length in Chapter 4, in some cases both parents may be impoverished and neither parent can afford what it actually costs to raise a child. Most states recognize this issue. Most state guidelines provide some sort of guideline adjustment for obligors with poverty or near-poverty incomes. The guideline amounts at this level often reflect a token amount or an amount that an obligor can reasonably pay while leaving him or her sufficient income to live at least at a sustainable level. As evident in Chapter 4, however, most states have failed to keep their low-income adjustments current.

Multiple-Partner Fertility

Guidelines amounts based on child-rearing expenditures in intact families cannot reflect the reality that mothers or fathers have children with several different partners. The incidence of multiple-partner fertility in California is unknown. A national survey of families and households conducted in 1989 found that 31 percent of noncustodial parents live with a new partner and children, including stepchildren.[65] One of the most comprehensive and detailed studies of fertility patterns of parents with multiple-partner fertility is a Wisconsin study that tracked cases for four years after the custodial parent applied for public assistance.[66] It found that more than half of the involved parents—the custodial parent, noncustodial parent, or both—had children with multiple partners.

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[61] Smith et al., *supra* note 49.

[62] Massachusetts Trial Cts., *Report of the Child Support Guidelines Task Force* (Oct. 2008).

[63] New York State Com. on Child Support & Assn. of the Bar of the City of New York, "What Are the Child Support Guidelines? The Child Support Standards Act," presentation to the Assn. of the Bar of the City of New York (New York, N.Y., Oct. 21, 1989); Ingrid Rothe, Judith Cassetty & Elisabeth Boehnen, *Estimates of Family Expenditures for Children: A Review of the Literature* (Univ. of Wisconsin-Inst. for Research on Poverty, 2001); Massachusetts Child Support Guidelines, *supra* note 62.

[64] Rothe & Berger, *supra* note 10.

[65] Irwin Garfinkel, Daniel Meyer & Sara McLanahan, "A Patchwork Portrait of Nonresident Fathers," in *Fathers Under Fire: The Revolution in Child Support Enforcement*, ed. Irwin Garfinkel et al. (Russell Sage Foundation, 1998).

[66] Maria Cancian, Steven Cook & Daniel R. Meyer, *Child Support in Complicated TANF Families* (Wisconsin Dept. of Workforce Development, 2003)).

Wisconsin researchers identified three approaches for dealing with multiple families when setting child support orders.[67] The approach taken by most state guidelines, including California's, is to consider each case independently. There may be an adjustment to the parent's income for other children living with the parent besides the children for whom support is being determined, but the support award is determined for the children in an individual case and support awards for other children are not revisited simultaneously. Another approach centers on the combined needs of all children living with the obligee. Although no state currently takes this approach, it could ensure an adequate level of support to the children while recognizing the economies of scale of more than one child living with the obligee. A third approach considers the financial resources available to an obligor to support all of his or her children living in different households. This could substantially reduce support in all of the obligor's cases and requires that support be determined for multiple cases simultaneously. Louisiana is the only state to consider such an adjustment, but it failed as legislation.[68] The Louisiana proposal attempted to treat all of the obligor's children equally while recognizing the other parents' financial responsibilities for their children.[69] The Louisiana proposal did not consider how much it costs to raise a child in an intact family.

Standard of Living

Those critical of basing state guidelines on measurements of child-rearing expenditures typically advocate state guidelines that consider the noncustodial parent's and the custodial family's standards of living after payment or receipt of child support. However, there is no consensus on the impact of child support on standard of living and what guideline model would yield a more equitable amount. Some argue that the underlying models of most state guidelines generally produce a higher standard of living for the custodial family than that of the noncustodial parent.[70] Others argue that the only situation in which the custodial family's standard of living is generally higher than that of the noncustodial parent is when the custodial family has more income than the noncustodial parent.[71] Still others argue that the custodial parent's and child's standards of living are inextricably linked, so it is an acceptable policy outcome for the custodial family's standard of living to increase.[72] California takes this position. It is stated in one of the guideline principles in state statute:

[67] Maria Cancian & Daniel R. Meyer & Univ. of Wisconsin Institute for Research on Poverty, *Alternative Approaches to Child Support Policy in the Context of Multiple-Partner Fertility* (Wisconsin Dept. of Workforce Development, Dec. 2006).

[68] Sarah Chacko, "Legislators Kill Child-Support Changes," *Advocate Capital News* (Baton Rouge, La., May 21, 2008).

[69] Jane Venohr & Center for Policy Research, *Technical Documentation: Multiple Family Adjustment* (Louisiana State Law Inst., Jan. 2008).

[70] Sanford Braver & David Stockburger, "Child Support Guidelines and Equal Living Standards," in *The Law and Economics of Child Support Payments,* ed. William Comaner (Edward Elgar Publishing Co., 2004); R. Mark Rogers & Donald Bieniewicz, "Child Support Guidelines: Underlying Methodologies, Assumptions, and the Impact on Standard of Living," in *The Law and Economics of Child Support Payments*, ed. William Comaner (Edward Elgar Publishing Co., 2004).

[71] Grace Blumberg, "Treatment of Child Support,"(Jan. 1999) 33(1) *Family Law Quarterly* 39–110.

[72] Massachusetts Trial Cts., *supra* note 62.

> Children should share in the standard of living of both parents. Child support may therefore appropriately improve the standard of living of the custodial household to improve the lives of children.

(Fam. Code, § 4053(f).)

The Arizona Judicial Council recently adopted a state guideline that is intended to partially close the gap between the custodial family's and noncustodial parent's standards of living.[73] The new guideline was developed in response to criticism over measurements of child-rearing expenditures and Arizona's version of the income shares model.[74] The new model generally produces award amounts lower than the existing Arizona guideline when the noncustodial parent's income is less than the custodial parent's income, and it produces amounts greater than the existing Arizona guideline when the noncustodial parent's income is higher than the custodial parent's income. It also significantly reduces the amounts for low-income noncustodial parents.

Chapter Summary

Most state guidelines, including California's, are based on the concept that the child support award should allow the children to benefit from the same level of expenditures that would have been provided had the children and both parents lived together. As a consequence, most states base their guidelines on measurements of child-rearing expenditures in intact families.

Several different measurements of child-rearing expenditures underlie state guidelines and are available to update the California guideline formula. The architects of the California guideline intended the *K*-fraction to represent the percentage of income devoted to child-rearing expenditures for 1 child. The *K*-fraction of 25 percent at combined net incomes of $800 to $6,666 is within the range of measurements of child-rearing expenditures, but it is on the high side when adjusted for child care and uninsured medical expenses. The California guideline multipliers for 2 and 3 children are within the range of measurements of child-rearing expenditures, but the amount for 3 children is at the extreme high end of the range. The California guideline multipliers for 4, 5, 6, 7, and 8 children are relatively high, while the multiplier for 9 children appears within range. The California guideline multiplier for 10 children is relatively low. The California guideline does not adjust for increases in obligee income until the combined income of the parents exceeds $6,666 per month or the parents share substantial physical responsibility. The California adjustment for shared physical responsibility decreases when the number of overnights with the obligor increases at a rate comparable to that used in other state guidelines.

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[73] Arizona Admin. Office of Cts., *Arizona Child Support Guidelines: Child Outcome Based Support Model Draft* (Mar. 25, 2010).

[74] Arizona Judicial Council, *Final Report of the Arizona Child Support Guidelines Review Committee* (Arizona Judicial Council, Mar. 2010).

This chapter also reviews the rationale for basing state guidelines or parts of state guidelines on amounts that do not reflect measurements of child-rearing expenditures. Justification for these alternative approaches may be due to the circumstances of the case and/or underlying guideline principles. For example, most states handle situations where both parents are impoverished by setting the order amount at a token amount rather than the cost of raising a child. Principle-based rationales generally consist of beliefs that the guideline should consider the standard of living of the children or of both the obligor and obligee households after payment or receipt of child support.

CHAPTER 3

Guideline Application and Deviation:
A Review of the Case Files

This chapter begins with a summary of the sampling and data collection conducted for this study and then looks at the deviations from the guideline found in the sampled cases. The chapter then ends with a description of the cases included in the case file review. See Appendix B for additional discussion of study methodology.

Sampling and Data Collection

Sampling Time Frame

The sampling time frame for the study included cases with filings and orders during the time period January 1 through December 31, 2008. This calendar year allowed a sufficient amount of time for action to occur in a case prior to data collection.

Sampled Counties

A review of individual case files was required for the data collection. As a result, it was not feasible to include all 58 California counties in the review. The 11 selected counties are the same counties that participated in the 2005 study.

As shown in Exhibit 3-1, the five large (blue), three mid-sized (yellow), and three small (red) counties participating in the study account for 50 percent of the state's population and vary in region. More detail on the sampled counties, including population size, economic status, and selected demographic characteristics, are provided in Appendix B.

Exhibit 3-1. Study Counties by Location, Population Size, and Percentage of State Population and Total Sample

County	Percentage of State Population	Percentage of 2010 Sample
Alameda	4.1%	7.9%
Amador	0.1	1.6
Fresno	2.4	19.3
Los Angeles	27.2	21.4
San Diego	8.3	14.7
San Luis Obispo	0.7	4.1
Santa Clara	4.8	13.4
Siskiyou	0.1	1.3
Solano	1.1	4.4
Tehama	0.2	3.9
Tulare	1.1	7.9
Total	50.2	100.0

Legend:
- Sampled large-sized county (blue)
- Sampled medium-sized county (yellow)
- Sampled small-sized county (red)
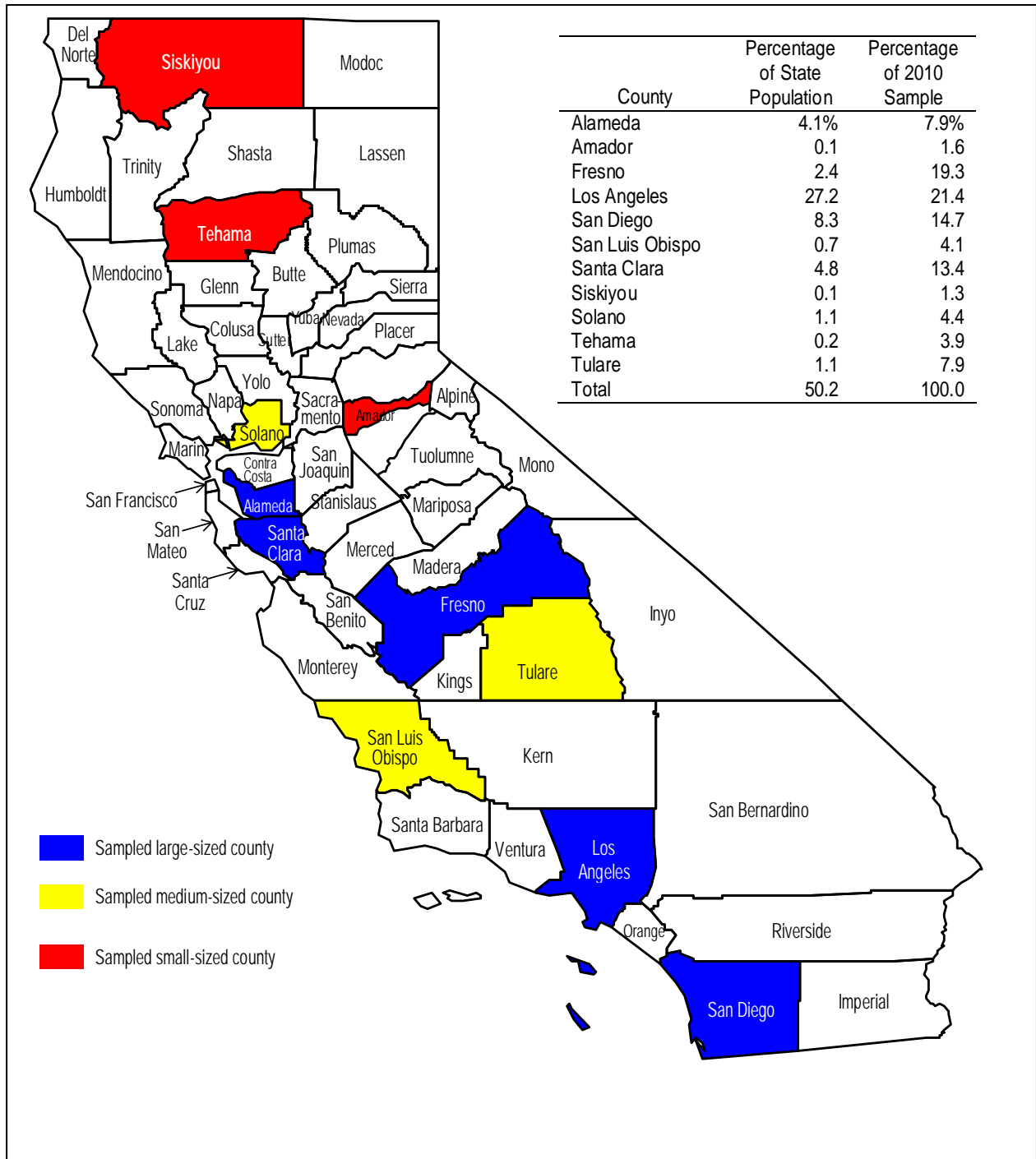
Sample Sizes

The minimum, targeted sample size was 1,000 cases. This is adequate to measure deviation rate, changes in deviation rate, and changes in deviation rate by various subgroups. It was also the targeted sample size for the last two guideline reviews.

The sample of 1,000 cases is weighted across the counties to create a proportional representation. Los Angeles County is separated from the very large counties because of its inordinate share of cases, 38 percent of all cases in large counties. Rather than use the 38 percent in a proportional sample, we used 21 percent because Los Angeles accounts for 21 percent of statewide child support order establishments.

For other counties, the cases sampled represent the county's proportion among the other counties of similar size in the state. For example, 55 percent of all establishments occur in large counties. Since Alameda, a large county, consists of 15 percent of establishments among sampled counties, the weight for Alameda County is 8 percent (55 percent multiplied by 15 percent) of all targeted cases.

Given that some cases will have to be excluded because of missing data, the courts were asked to oversample by 20 percent. For example, the minimum sample goal in Los Angeles was 209 cases but with 20 percent added for oversampling, Los Angeles was asked to provide a random sample of 250 cases (i.e., 209 cases plus 41 cases). Across all counties this produced a targeted sample size of 1,199 cases. Counties were instructed to sample equally from IV-D and non-IV-D cases. Previous guideline reviews also considered almost an equal split of IV-D and non-IV-D cases. All cases were randomly selected.

In all but two of the small counties, the cases included in the analysis met or exceeded the weighted sample goal. The two exceptions, Siskiyou and Tehama, fell short by 10 and 7 cases, respectively. By contrast, the sample as a whole exceeded the minimum sample goal by 226 cases. All cases for which data were collected (1,226 cases) were used for analysis. Exhibit 3-2 gives more information about the sampling by county and the number of cases received and included in the analysis.

Exhibit 3-2. Sample Size (Number of Cases)			
	Minimum Sample Goal	**Targeted Sample**	**Cases Usable for Analysis**
Large-sized counties			
Los Angeles	209	250	262
Alameda	79	95	97
Fresno	197	236	237
Santa Clara	121	146	164
San Diego	147	177	180
Medium-sized counties			
San Luis Obispo	32	38	51
Solano	44	52	54
Tulare	73	88	97
Small and very small counties			
Amador	17	20	20
Siskiyou	26	31	16
Tehama	55	66	48
Sum of sampled counties	**1,000**	**1,199**	**1,226**

Data Collection Methodology

The data collection instrument (included in Appendix B) is essentially the same instrument used in the two previous guideline studies. The only notable exceptions are some questions targeting medical support process.

Data collectors were recruited through a competitive bidding process. Required qualifications included a law degree, knowledge of California family law, and familiarity with court files. A law degree and family law background are helpful because the documentation of legal proceedings and other information in family law case files can be voluminous. Case files may contain complaints, summonses, notices, documentation of service of process, financial statements, proof of income, orders for support, orders for income withholding, printouts of guideline calculations, and other pertinent information. Administrative Office of the Courts (AOC) staff trained the outside attorneys in how to use this information to complete the data collection instrument. The training was conducted individually. In addition, AOC attorneys collected the data on two counties.

Review of Preliminary Case File Review Findings

After all data were received and entered, the Center for Policy Research (CPR) conducted two focused discussion groups, one with advocates and one with child support commissioners from the counties involved in the case file review. Project staff shared selected preliminary findings

with the two groups to help add context to the statistical data and help interpret the case file review results. When available, the project staff compared data from the 2008 sample to data from the 2004 sample. The advocates and commissioners were asked to explain trends and suggest possible reasons for the findings.

Guideline Deviations

A major purpose for the collection of case file data is to generate a database that allows analysis to accurately determine whether the guideline is being used and how commonly deviations from the guideline occur. Family Code section 4057 states that the amount of child support determined by the guideline formula will be presumed to be the correct amount unless one or more of the following factors are applicable by a preponderance of the evidence:

(1) The parties have stipulated to a different amount of child support under subdivision (a) of Section 4065.[75]
(2) The sale of the family residence is deferred pursuant to Chapter 8 (commencing with Section 3800) of Part 1 and the rental value of the family residence in which the children reside exceeds the mortgage payments, homeowners insurance, and property taxes. The amount of any adjustment pursuant to this paragraph shall not be greater than the excess amount.
(3) The parent being ordered to pay child support has an extraordinarily high income and the amount determined under the formula would exceed the needs of the children.
(4) A party is not contributing to the needs of the children at a level commensurate with that party's custodial time.
(5) Application of the formula would be unjust or inappropriate due to special circumstances in the particular case. These special circumstances include, but are not limited to, the following:
  (A) Cases in which the parents have different time-sharing arrangements for different children.
  (B) Cases in which both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent.
  (C) Cases in which the children have special medical or other needs that could require child support that would be greater than the formula amount.

Exhibit 3-3 shows the percentage of orders deviating from the guidelines in each of the studies conducted in 2010, 2005, 2001, and 1998. In the first three studies—those in 1998, 2001, and 2005—the deviation rate was fairly constant. In each of these years, around 9 to 10 percent of the

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[75] Courts encourage litigants to work out agreements in legal matters, including child support. In assessing the application of the child support guideline, this study focuses primarily on court-ordered deviations, rather than nonguideline child support orders agreed to by the parties. However, even with orders entered by stipulation, the court must find that parents have recited a waiver if the agreed amount is below the guideline formula amount. Among other things, the waiver states that the parties have been informed of the guideline amount, that they agree voluntarily to the amount in the order, and that the needs of the children will be adequately met by the agreed amount (Fam. Code, § 4065). In addition, there are limitations to stipulations in governmental cases.

sampled cases showed a deviation from the guideline. In the 2010 sample, 14.6 percent of the sampled cases of show a deviation.

When asked about the deviation rate, the commissioners initially responded that it is lower than what they had expected. The commissioners agreed that, in general, when there is an economic downturn and lower income, deviations increase. They gave several situations that typically result in a deviation and that they are seeing more frequently:
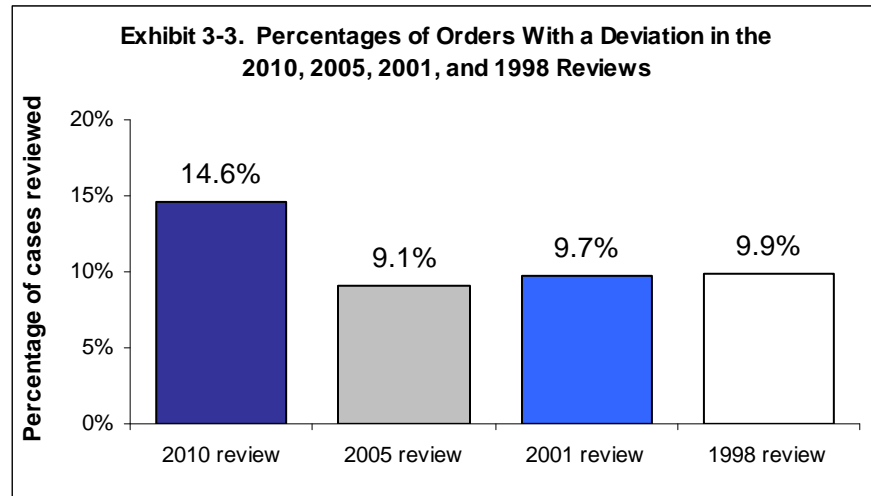
Exhibit 3-3. Percentages of Orders With a Deviation in the 2010, 2005, 2001, and 1998 Reviews

Review	Percentage
2010 review	14.6%
2005 review	9.1%
2001 review	9.7%
1998 review	9.9%

- Many obligors have very low income, especially given the economic climate in California during 2008. The commissioners stated that if the obligor cannot afford to support himself and live at a subsistence level after the guideline amount is taken out of his income, they will deviate from the guideline. The commissioners find that deviating so that the noncustodial parent can support himself is in the best interest of the child and ensures that the obligor does not have a disincentive to work in the above-ground economy.
- Parents stipulate to a different order amount; and if the conditions of Family Code section 4065(a) are met, commissioners often agree with the stipulated amount.
- When the custodial parent has no income and the noncustodial parent has very low income and shared physical responsibility for the child, the guideline formula ends up penalizing the noncustodial parent for visiting with the child.[76] The commissioners stated that they will deviate in these cases because making the noncustodial parent pay for shared physical responsibility is unfair.
- Many of the commissioners felt that when parents have extremely high incomes, the result of the guideline formula ends up being extraordinarily high. If these cases end up going to court, which is occurring more frequently because of the economic recession, the court will deviate.
- Obligors often have multiple children with multiple partners. In these cases, if the obligor has zero timesharing with the children on the child support case, the order ends up being so high that the obligor cannot afford to support all of his or her children. The commissioners examine situations like this individually to determine whether it is appropriate to deviate.
- Some commissioners stated that they will deviate in cases where obligor income is presumed because there is no proof that the obligor is actually earning that amount and the child support order ends up being too high.

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[76] The researchers for this study were able to replicate this outcome using obligor income less than $1,000 net per month.

The advocates felt that the deviation rate may have increased because judges are examining cases individually to determine what parents can afford to pay. Additionally, parents are more educated and know when they may be eligible for a deviation and will request it.

Exhibit 3-4 shows the deviation rate for various types of cases: IV-D status, method of order establishment, new establishments versus modification, and legal representation of the parents.

Exhibit 3-4. Percentages of Cases With a Deviation, by Selected Factors, in the 2010 Review

Factor	Percentage of cases reviewed
All orders	14.6%
Non-IV-D orders	21.1%
IV-D orders	8.7%
Default orders	9.7%
Contested orders	8.7%
Stipulated orders	25.7%
Modified orders	20.7%
New orders	14.3%
Neither parent..	15.3%
Only obligor represented	12.9%
Only obligee represented	17.1%
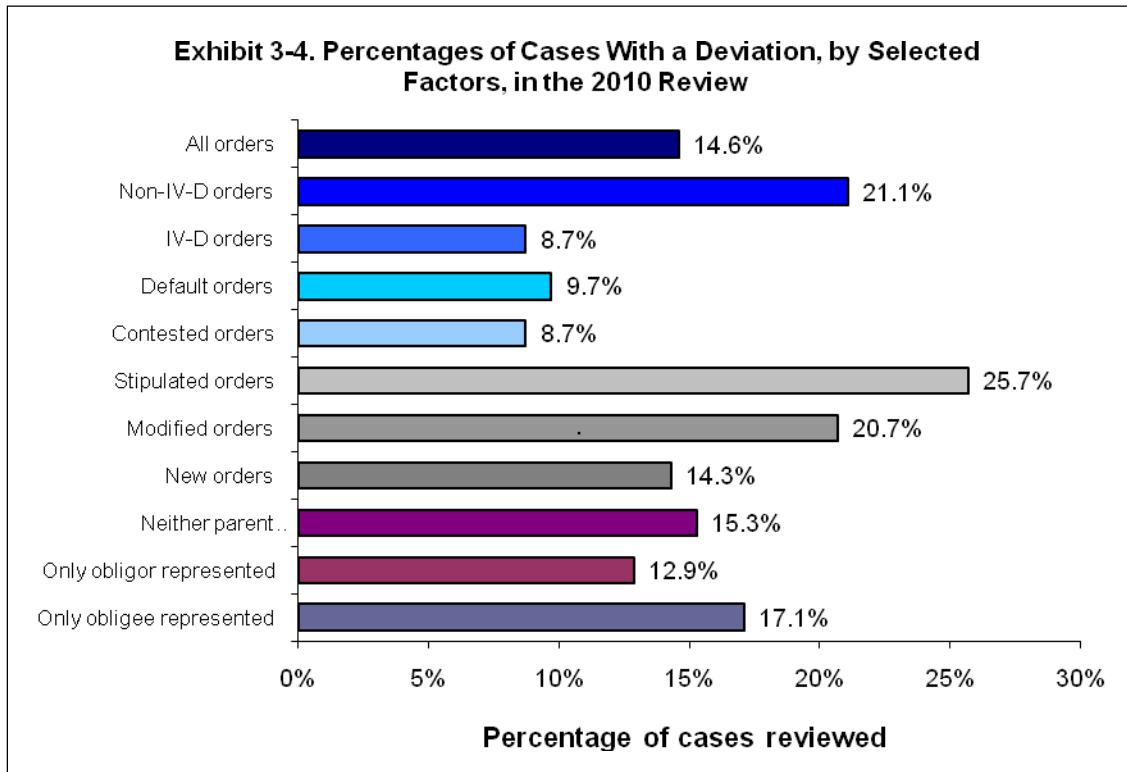
IV-D Status

Non-IV-D cases were significantly more likely to involve a deviation than were IV-D cases. Just over 20 percent of the non-IV-D cases showed a deviation from the child support guideline, compared to 9 percent of the IV-D cases. Deviations in IV-D orders are probably lower because deviations in CalWORKS cases are limited under Family Code section 4065(c).

Method of Order Establishment

The following three categories were used to classify how an order was entered:

- Default: The respondent/defendant did not file responsive papers and did not appear at the hearing, and there was no written stipulation or stipulation taken on record.
- Contested: The respondent/defendant filed responsive papers or appeared at the hearing, and there was no written stipulation.
- Stipulation: There was a written stipulation or stipulation taken on record.

This classification is consistent with categories used in the last case file reviews and for

other legal matters.[77]

As Exhibit 3-4 shows, deviations from the guideline were most common in stipulated cases. These cases were two to three times as likely to deviate from the guideline as were contested and default cases. When there was a deviation from the guideline, stipulations were also more likely than contested or default orders to be deviations below the guideline. Sixty-four percent of the stipulated deviations were downward, compared to 8 percent and 10 percent of the contested and default orders, respectively.

Newly Established and Modified Orders
Although more modified orders than new orders showed a deviation from the child support guideline, the difference is not statistically significant.

Legal Representation of the Parties
There are no statistically significant differences in the percentages of cases with deviations from the guideline based on legal representation of the parties. When both parents had attorneys, 10 percent of the cases resulted in a deviation. When neither party had an attorney, 15 percent deviated from the guideline. When only the obligor or obligee was represented, the percentages of cases with deviations stood at 13 and 17 percent, respectively.

Some of the patterns presented in Exhibit 3-4 were reexamined using data from both the 2005 and 2010 study to determine whether the types of cases with deviations have changed over time.

Exhibit 3-5 compares selected types of cases on deviation rates in 2005 and 2010. In each type of case there were significantly more deviations in the 2010 sample than in the 2005 sample. The greatest differences were between the 2005 and 2010 non-IV-D cases with deviations and the 2005 and 2010 new-order cases.

Exhibit 3-5. Percentages of Cases With Deviations Based on Selected Factors in the 2010 and 2005 Reviews

IV-D orders: 8.7% (2010), 6.0% (2005)
Non-IV-D orders: 21.1% (2010), 12.0% (2005)
Stipulated orders: 25.7% (2010), 15.3% (2005)
New orders: 14.3% (2010), 7.3% (2005)
Modified orders: 20.7% (2010), 10.6% (2005)

Percentage of cases reviewed

□ 2005 review ■ 2010 review

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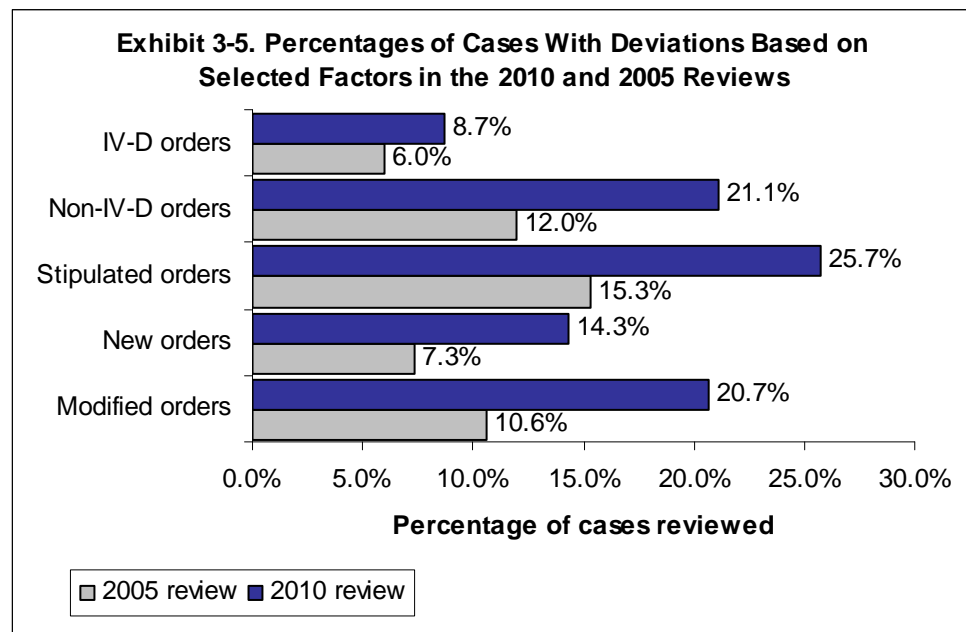
[77] Commissioners from the study counties noted that these definitions and delineations among the categories can be indistinct. Examples given by the commissioners are listed later in the chapter where order entry method is discussed.

Reasons for the Deviations

Exhibit 3-6 shows the reasons for deviations. The total does not add up to 100 percent because some cases had multiple reasons for deviations. As shown in Exhibit 3-6, the percentage of deviations resulting from a stipulation between the parties remained constant from 2005 to 2010. At both time points, about 60 percent of the deviations were by stipulation. The guideline amount was deemed unjust or inappropriate in 4 and 3 percent of deviations, respectively, in 2010 and 2005. Other reasons were noted in 15 percent of the 2005 deviations and 20 percent of the 2010 deviations.

Exhibit 3-6 also shows that the deviation reason was unstated in 22 percent of the 2010 deviations. That rate varied between IV-D and non-IV-D cases. The reason was unstated in 30 percent of the IV-D deviations and 20 percent of the IV-D deviations.

Exhibit 3-6. Percentages of Cases With Various Reasons for Deviations from the Guideline in the 2010 and 2005 Reviews
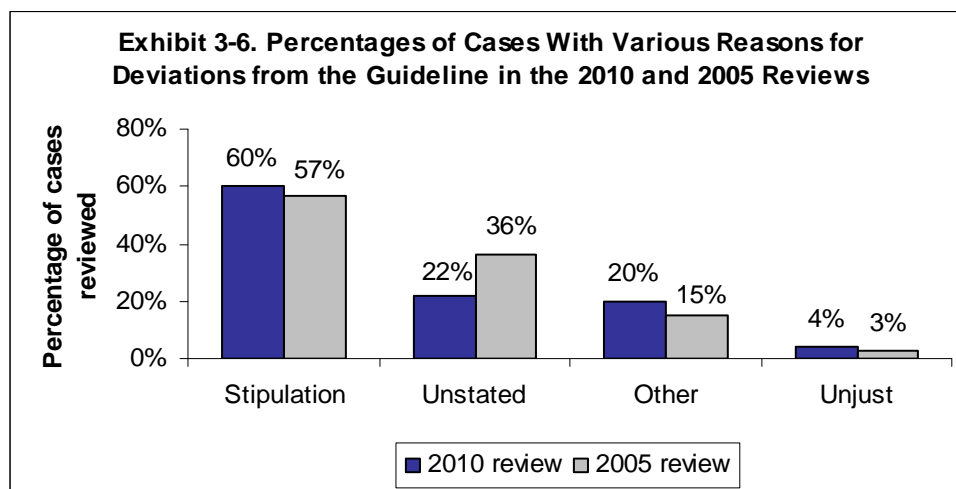
The commissioners were taken aback by the frequency of cases in which the reasons for the deviations were unstated. All commissioners said that, in their rulings, they always state the reason for a deviation. However, they did acknowledge that the oral ruling may not get put into the case file or order. Several commissioners added that they print out the calculation and attach it to the order in all of their cases.

Direction of the Deviations

Exhibit 3-7 compares the direction of the deviations in the 2010 and 2005 reviews. As shown in the exhibit, downward adjustments were made in the majority of deviations in both study years. This means that the amount ordered in the case was less than the amount calculated by the guideline. There is a statistically significant difference between the years in the percentage of deviations adjusted upwardly. In 2005, just over a quarter of deviations were upward, compared with 14 percent in the 2010 review.

The commissioners were surprised that any of the deviations were in an upward direction. In court, they said, it is rare to see parents asking for an upward deviation. Both the commissioners and the advocates agreed that the increase in upward and decrease in downward deviations is undoubtedly related to the economic climate. The advocates added that the increase in downward deviations may be related to the parents' being more educated and knowing when they are eligible for a downward deviation.

Exhibit 3-7. Deviations From the Guideline in the 2010 and 2005 Reviews (Percentages of Cases)

	2010 Review	2005 Review
Percentage of cases with a deviation*	14.6%	9.1%
Of those cases with a deviation, the direction of the deviation:		
Upward*	14	26
Downward	69	60
Unstated	17	14

* The difference between the groups is significant at <.05.

Description of the Cases

This section describes characteristics of the cases reviewed to put the deviation rate in context. It considers whether the order is newly established or modified and the order entry method.

Newly Established and Modified Orders

As shown in Exhibit 3-8, the vast majority of cases in the 2010 case file review (93 percent) are newly established orders. In the last review, 49 percent of the cases were newly established orders and 52 percent were modifications. Some of this drastic, statistically significant change can be attributed to changes in the sampling methods occurring since the last review. Specifically, the sample for the 2010 review was drawn from filings in calendar year 2008 that also had an order entered in 2008.[78] The sample for 2005 review was drawn from the court calendar. Another factor that may have contributed to the high percentage of modifications during the previous review is that many IV-D agencies were requesting modifications of orders based on the low-income adjustments that became presumptive with legislative changes in 2003.

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[78] However, this is also the sampling method employed in the 2000 review, with the exception that for the 2000 sample the order did not have to be entered in the same year. That is, the 2000 sample was selected from cases filed within the same calendar year, but an order did not necessarily have to be established during that year. Because the 2000 data collectors were instructed to collect data on the most recent action, this practice allowed some modifications to be included in the sample.

The commissioners and advocates unanimously agreed that the reason for the shift in newly established and modified orders was the different sampling method used in the 2010 review. Having an order filed, established, and modified all in one year is extremely rare.

Exhibit 3-8. Newly Established and Modified Orders in the 2010 and 2005 Reviews

	2010 Review	2005 Review
Modifications	7%	52%
New orders	93%	49%

Percentage of cases reviewed

Legend: ■ New orders □ Modifications
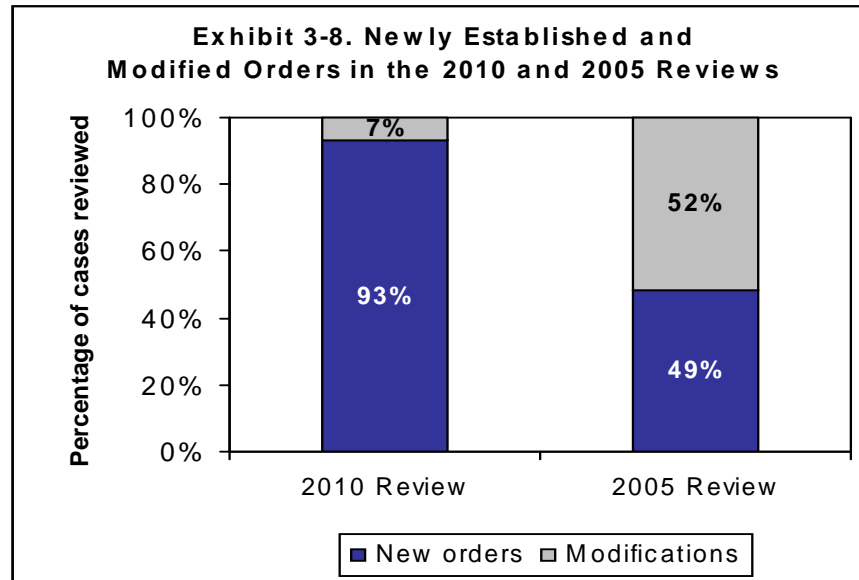
Order Entry Method

As previously stated, the three categories used to classify how an order was entered were:

- Default: The respondent/defendant did not file responsive papers, did not appear at the hearing, and there was no written stipulation or stipulation taken on record.
- Contested: The respondent/defendant filed responsive papers or appeared at the hearing, and there was no written stipulation.
- Stipulation: There was a written stipulation or stipulation taken on record.

These categories can be indistinct, however. The previous case file review listed several situations involving combinations of more than one of these categories and identified cases in which it was difficult to distinguish among the three categories:

- Hearings are sometimes uncontested. In some cases, respondents appear at court—either because they do not fully understand the pleadings or because they think they are required to appear—but do not contest the facts of the case or the order amount.
- Some hearings combine paternity and order establishment. In these cases, the respondent/defendant may order DNA testing. Some courts offer immediate DNA testing and results. In these courts, it is common for a respondent to agree to the support award once he learns that he is indeed the biological father of the children.
- In some hearings, only one or two facts are contested. Therefore, whether an order is categorized as "contested" may be a matter of degree and may not be equivalent to the level of contest at a different hearing. The last review cited the percentage of time a child spends

with each parent and different types of income (e.g., self-employed, temporary, or seasonal incomes) as the most common issues of dispute.

- Parties may stipulate immediately before a scheduled hearing. In some of the aforementioned cases where parties agree to all but one fact, some commissioners provide a window of opportunity for the parties to stipulate before swearing the parties under oath.

- In some counties, respondents do not need to file responsive papers to schedule a hearing. The respondent instead calls a telephone number to access an automated system to schedule a hearing. Although these cases are categorized as contested since the respondent appears at the hearing, responsive papers are not filed.

As shown in these circumstances, different courts may interpret and use the classifications differently based on the individual characteristics of the case.

Exhibit 3-9. Order Entry Method for Cases in the 2010, 2005, and 2001 Reviews

	2010 review	2005 review	2001 review
Stipulation	32%	39%	46%
Contested	23%	32%	10%
Default	46%	29%	44%
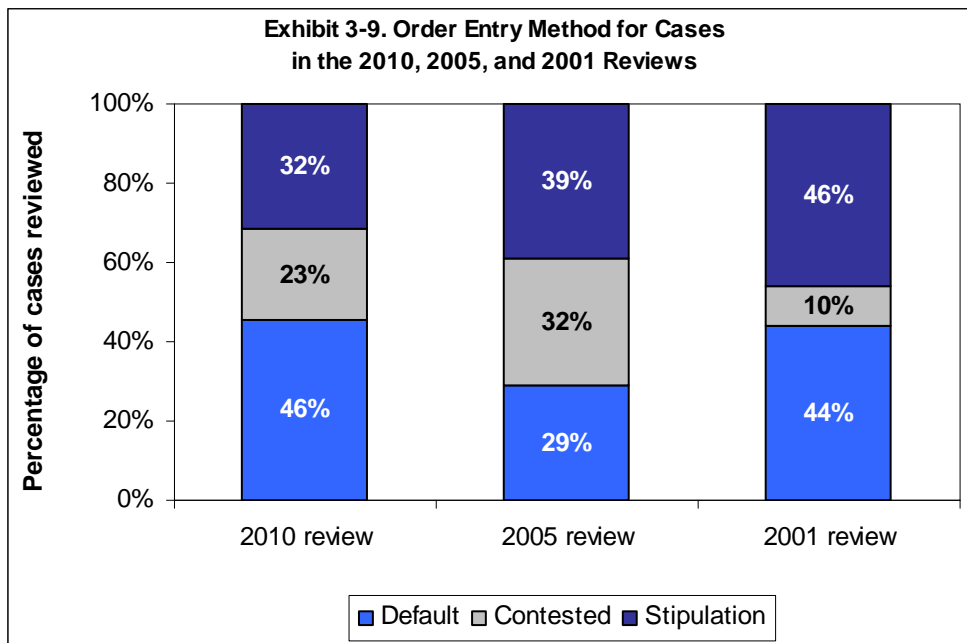
Exhibit 3-9 shows the order entry method in the 2010, 2005, and 2001 case file reviews. As shown in the exhibit, the percentage of cases entered through default decreased from 44 percent in 2001 to 29 percent in 2005 and then went back up to 46 percent in the 2010 review. (The changes between the years are both statistically significant.) There were also statistically significant decreases from 2005 to 2010 in the percentages of cases that were stipulations (from 39 percent to 32 percent) and contested (from 32 percent to 23 percent).

Commissioners and advocates attributed the increased default rate to several factors. In 2004, when the last sample was pulled, there was a push to reduce default cases. Since then, however, this effort has stopped, perhaps contributing to the increase in defaults. The commissioners also noted that the DCSS is asking for lower orders in the initial summons. In addition, the commissioners noted that some default orders are actually uncontested orders. When an obligor

receives the proposed judgment and it is an order he or she can live with, the obligor may not follow up with DCSS. The parent does not contact DCSS, and DCSS offices, which have experienced staff cutbacks, may not have the time or resources to follow up with the parent. That being said, the commissioners did find the increase in default judgments problematic. The advocates also believed that the increased defaults may be partially the result of the economic climate and the inability of parties to afford attorney representation.

Exhibit 3-10 shows the order entry method for IV-D and non-IV-D cases in the 2010 case file review. As shown in the exhibit, more than two-thirds of IV-D cases were entered through default, whereas only 22 percent of non-IV-D cases were entered through default. (These both represent increases since the last review, when 45 percent of IV-D and 13 percent of non-IV-D cases were entered through default.) Most (77 percent) of default orders were uncontested. Non-IV-D cases were more likely to be entered through stipulation (47 percent) or contested hearings (31 percent) than IV-D cases, where 18 and 15 percent of cases were entered through stipulation and contested hearings, respectively. All of the differences between IV-D and non-IV-D cases in the 2010 review are statistically significant.

The IV-D default rate (i.e., 68 percent) detected in the case file sample is higher than the default rates tracked by the California Department of Child Support Services (CDSS). In state fiscal years 2008 and 2009, CDSS reported default rates of 48 and 41 percent, respectively.[79] Part of the reason may be explained by above-average default rates (e.g., over 50 percent) in some of the large counties in the sample, but that is unlikely to explain all of the difference.

Exhibit 3-10. Order Entry Method in IV-D and Non-IV-D Cases (Percentages of Cases)

	IV-D Cases	Non-IV-D Cases
Default*	68%	22%
Contested*	15%	31%
Stipulations*	18%	47%
Number	628	569

*The difference between the groups is significant at <.05.

Application of Other Guideline Factors

The guideline provides for many adjustments to base support: a hardship deduction, the low-income adjustment, orders for additional support, and health insurance coverage.

Hardship Deductions

Family Code section 4070 allows the court to grant parents a hardship deduction in circumstances listed in section 4071, including:

- Extraordinary health expenses for which the parent is financially responsible;

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[79] Cal. Dept. of Child Support Services, *"Comparative Data for Managing Program Performance: Federal Fiscal Year 2009,"* table 3.12 (Mar. 2010); Cal. Dept. of Child Support Services, *"Comparative Data for Managing Program Performance: Federal Fiscal Year 2008,"* table 3.12 (Apr. 2009).

- Uninsured catastrophic losses; and
- Additional children from subsequent or prior relationships living with the parent whom the parent has an obligation to support.

In the 2010 review, the case files noted a hardship deduction for 4 percent of fathers and 4 percent of mothers. As shown in Exhibit 3-11, the percentage of cases in which a hardship deduction was applied decreased between the 2005 and 2010 reviews, down from 11 percent for fathers and 6 percent for mothers in the 2005 review. Both of these decreases are statistically significant. Additional children was the reason for most hardship deductions. Additional children was the reason for 78 percent of the hardship deductions for fathers and 84 percent of the hardship deductions for mothers.

Exhibit 3-11. Hardship Deductions in the 2010, 2005, and 2001 Reviews

	2010 review	2005 review	2001 review
Fathers with hardship deductions	4%	11%	2%
Mothers with hardship deductions	4%	6%	1%
Fathers with deductions for child or spousal support	3%	7%	2%
Mothers with deductions for child or spousal support	1%	2%	0%
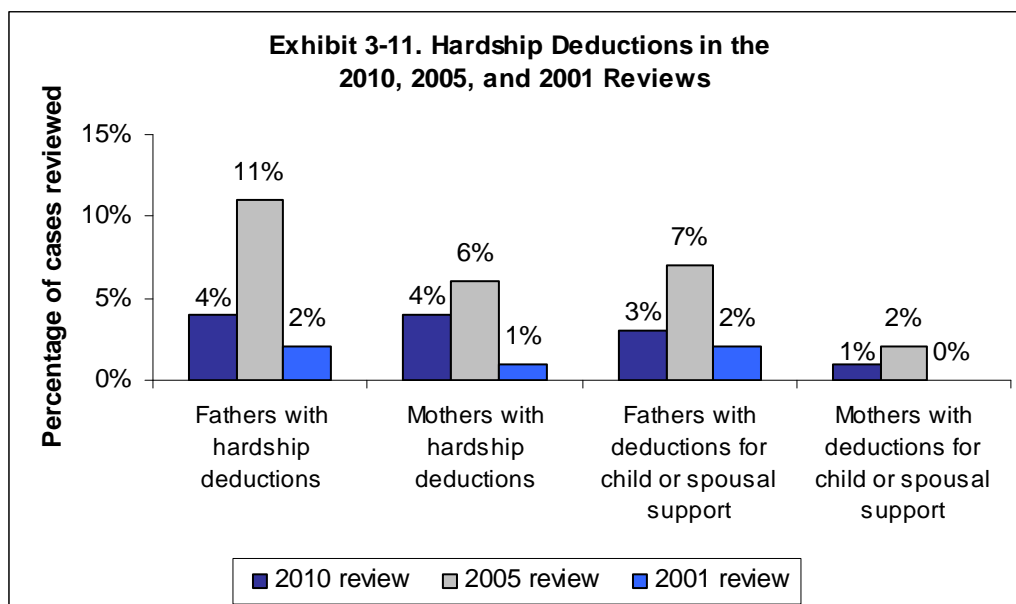
There is a statistically significant difference in the percentage of IV-D and non-IV-D cases where a hardship deduction is applied, with IV-D cases being more likely to include a hardship deduction (7 percent of fathers and 5 percent of mothers) than non-IV-D cases (2 percent of both fathers and mothers). Modified orders noted more hardship deductions than new cases. The modifications include hardship deductions for 5 percent of fathers and 7 percent of mothers, whereas the new orders noted these deductions for 4 and 3 percent of fathers and mothers, respectively.

Commissioners were not surprised by the significant reduction in the percentages of cases with a hardship deduction. They agreed that, because hardship deductions are less frequently applied in new cases and are never applied in default cases, the decrease in hardship deductions is a result of the sample (where there was a drastic increase in the percentages of new and default cases) and not the result of any changes in policy or family situations.

The advocates believed that the hardship deductions are not consistently applied and that these deductions should be automatic. The commissioners, on the other hand, unanimously felt that these deductions need to be discretionary and that every case should be looked at individually. Commissioners gave examples of when they like to examine a case and control the hardship deductions. For example, if a noncustodial parent has subsequent children with a subsequent spouse and the new spouse has income, the noncustodial parent may be granted a partial hardship deduction because that parent is not the sole supporter of the additional children. Generally, the commissioners felt that they do not want to reward noncustodial parents or punish any of the children because the noncustodial parent decides to have additional children.

Exhibit 3-11 also shows a decrease in the percentages of cases where there is a deduction for child or spousal support. For fathers, this fell from 7 percent in the 2005 review to 3 percent in the 2010 review. This decrease is statistically significant. The percentage of cases where the mother received a deduction for child or spousal support also decreased, although this change is minor and is not statistically significant. The data collection instrument did not specify whether these deductions are for child support or spousal support.

For fathers, a deduction for child or spousal support was noted in more IV-D than non-IV-D cases—5 percent and 2 percent, respectively (this difference is statistically significant)—and in more modifications than new cases (4 percent and 3 percent, respectively). For mothers, just about 1 percent of cases noted these deductions regardless of IV-D and non-IV-D status and regardless of whether the case was a new order or a modification.

The Low-Income Adjustment

If an obligor earns less than $1,000 per month in net disposable income, Family Code section 4055(b)(7) grants the obligor a low-income adjustment (LIA) as long as the adjustment is not unfair or inappropriate. As shown in Exhibit 3-12, eligibility for the LIA remained stable from the 2005 review to the 2010 review, with just about 15 percent of obligors eligible. This is somewhat surprising because of the increase in minimum wage since the last review but it is also not surprising because of the economic recession, which has produced job losses and reduced some jobs to part-time work. As shown later, more obligors have zero incomes.

Exhibit 3-12 also shows that in cases where the obligor was eligible for the LIA, it was actually applied in 59 percent of cases in the 2010 review and 52 percent of cases in

Exhibit 3-12. Eligibility for and Application of the Low-Income Adjustment in the 2010 and 2005 Reviews (Percentages of Cases)

	2010 Review	2005 Review
Percentage of obligors not eligible for the LIA	86%	85%
Percentage of obligors eligible for the LIA	14	15
Of those eligible for the LIA:		
LIA applied	59	52
LIA not applied	40	48
Unknown	1	0

the 2005 review (a difference not statistically significant).

In IV-D cases, the LIA is applied in 65 percent of the cases where the obligor is eligible. The adjustment is granted in only 6 percent of the non-IV-D cases where the obligor is eligible. This difference is statistically significant.

When asked why the LIA would not be applied in certain cases, most of the commissioners agreed that they could not think of a situation in the IV-D caseload in which they do not grant the LIA where the obligor is eligible. However, they did note that the LIA is not consistently applied in defaults and stipulations. Indeed, the case file review data find that over 90 percent of the IV-D cases where the obligor is eligible for the LIA but it is not granted are entered through either default or stipulation.

In non-IV-D cases, the commissioners felt that sometimes obligors who should receive the LIA do not because of the way the automated guideline calculator is set up. When an obligor in a IV-D case is eligible for the LIA, it is very clear in the computer system and it is usually automatically applied (except in the cases entered through default or stipulation). In non-IV-D cases, a judge has to check to see if the obligor is eligible for the LIA and manually apply it.

Of the cases where the LIA was applied, most of the orders (89 percent) cover one or two children. The average monthly order amounts in cases where the LIA was applied is $95 for one child, $161 for two children, and $177 for three children. If the LIA was not granted, the monthly guideline amount for an obligor earning $1,000 per month (assuming the obligee has no income and the obligor has no physical responsibility for the child) would be $225 for one child, $360 for two children, and $450 for three children.

The commissioners and advocates all agreed that the LIA in its current form creates orders that are too high for low-income obligors and ends up further impoverishing these obligors. Both groups felt that the LIA should be capped at $1,500 per month instead of $1,000. The commissioners also suggested that the ceiling could be set at full-time, minimum wage, so that legislation would not have to change when the minimum wage increases. Another suggestion the commissioners had is to provide a sliding scale low-income adjustment, with different adjustments for different incomes (e.g., $500 a month; $1,000 per month; and $1,500 per month).

Orders for Additional Support
Under Family Code section 4062, courts may order additional child support to help pay for employment- or education-related child-care costs, uninsured health-care expenses, education costs or costs for other special needs of the child, and travel expenses for visitation. Under Family Code section 4061, the court is to assign a 50/50 split of these costs between the parents, unless either parent requests and the court finds a different apportionment or pro rating the expenses to be more appropriate.

As shown in Exhibit 3-13, fewer cases in the 2010 review included an additional support order for child care and uninsured health-care expenses (12 percent and 18 percent, respectively) compared to the previous review (where 15 percent and 25 percent, respectively, had orders for additional support for child care and uninsured health-care expenses included). These differences are statistically significant. The percentage of cases with an order for education or special needs expenses also fell from 3 percent to 2 percent. The commissioners, when asked about the decrease in child care ordered, stated that both the increased unemployment rate and greater numbers of people using relative care contribute to the relatively low percentage of cases with a child-care add-on.

Non-IV-D cases were more likely than IV-D cases to have an order for additional support to cover child-care (10 percent in IV-D cases and 13 percent in non-IV-D cases) or uninsured health-care expenses (17 percent in IV-D cases and 20 percent in non-IV-D cases), although these differences are not statistically significant. As discussed in detail in Chapter 5, new federal medical support rules that became effective July 2008 require that IV-D agencies petition for health insurance[80] for the children and/or "cash medical support" (which can be an order that addresses how the parents will pay for the children's uninsured health-care expenses). The case file data indicate that 95 percent of IV-D cases contain an order for health insurance and/or uninsured health-care costs.[81] Most often, an order for health insurance was included.

Provisions for child-care and uninsured health-care expenses are more likely to be contained in modified orders than in new orders. There is a statistically significant difference between the percentages of new cases and modifications with child-care and uninsured health-care costs ordered. New cases had an add-on for child care in 11 percent of cases and uninsured health-care costs in 17 percent of cases, whereas modifications had add-ons for child care in 23 percent of cases and for uninsured health-care expenses in 39 percent of cases.

The California guideline provides several options for allocating additional support between the parents. It can be split 50/50, or it can be prorated between the parents if requested. It can be ordered as a percentage of the expense or as a fixed dollar amount. Other state guidelines generally provide fewer options. For example, most state guidelines prorate work-related child-care expenses between the parents and incorporate the adjustment for the prorated expenses into the final support award. Few state guidelines provide that the order for child care is a percentage of the expenses and to be paid directly to the child-care provider. Other state guidelines,

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[80] As discussed more in Chapter 6, the health insurance must also be "reasonable" in cost and "accessible" to the child, where the definitions of "reasonable" and "accessible" are at state discretion. Further, if accessible insurance is not available at a reasonable cost when the order is entered, the IV-D agency must petition for cash medical support (45 C.F.R. § 303.31(2)). The data available in the court case files generally do not note whether accessible insurance was available at a reasonable cost when the order was entered, but part of the sample period was before the federal requirement became effective.

[81] This is consistent with information from IV-D cases tracked by DCSS. For example, medical support is ordered in 90 percent of California IV-D cases with established support orders. Cal. Dept. of Child Support Services, *Comparative Data for Managing Program Performance: Federal Fiscal Year 2008* (Apr. 2009).

however, will typically provide that the order for uninsured health-care expenses can be a percentage. An order in which each parent is responsible for a percentage of uninsured expenses is practical when the expense is in the future, may or may not occur, and is of an unknown amount. For example, suppose that five months after the order was established the child was involved in a playground accident, the child received medical care, and the amount of uninsured expenses was fairly large. A percentage order would more appropriately cover this situation.

Exhibit 3-13. Orders for Additional Support in the 2010 and 2005 Reviews
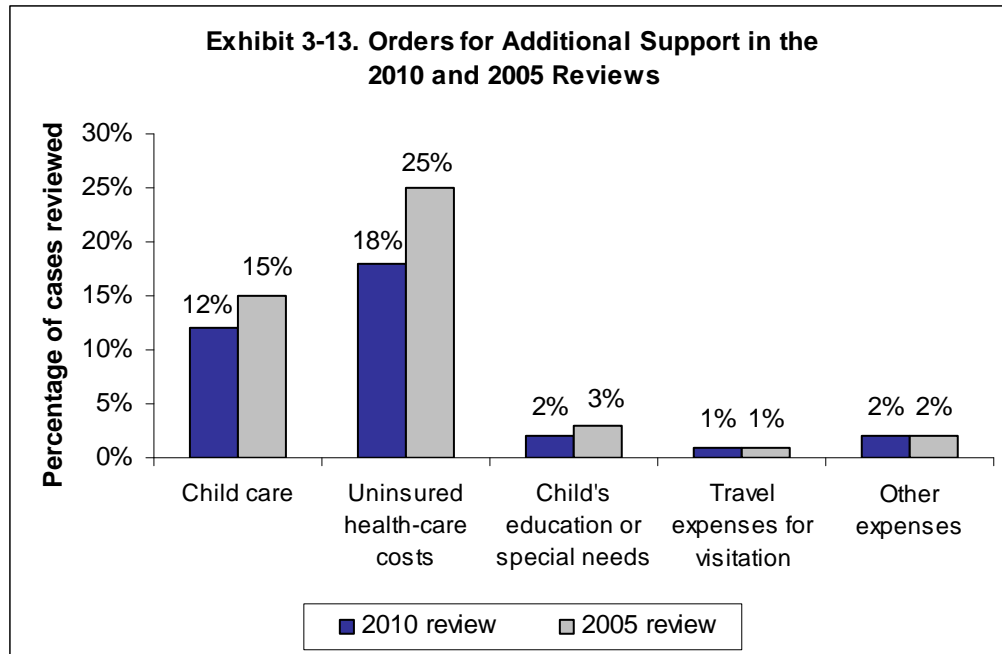
In 66 percent of the California orders for additional child-care expenses, the court split the costs 50/50 between the parents, the order was specified as a percentage other than 50/50 in 4 percent of cases, and it was specified as a fixed dollar amount in 29 percent of cases. Eighty-seven percent of the orders for uninsured health-care costs were equally split between the parents, the order specified a different apportionment in 12 percent of cases, and the order specified a fixed dollar amount in 1 percent of the cases.

The commissioners appreciated that these items are add-ons and felt that this is the appropriate way to include these other costs into the guideline. The advocates, on the other hand, felt that these add-ons complicate the guideline calculation and that all these factors end up causing more conflict between the parents.

Health Insurance

The California guideline deducts the cost of health insurance for a parent and for any child the parent has an obligation to support from that parent's gross income. There is an order for a parent

to provide health-care insurance in 80 percent of the cases reviewed.[82] The mother must provide the coverage in 9 percent of these orders, the father is ordered to provide health-care insurance in 48 percent of cases, and both parents are ordered to provide the insurance in 42 percent of these cases.

The case file review data found that about 5 percent of parents do not have health insurance available to them at a "reasonable cost"; however, the data do not specify whether the remaining parents actually have health insurance available or that health insurance was reasonable in cost. When asked what they define as "reasonable," one commissioner stated that he used 10 percent of income but said it may vary based on the situation. Other commissioners did not have a consistent threshold. As mentioned earlier, new federal regulations require that states specify a quantitative threshold for determining whether medical support is reasonable in cost. (More information on these federal requirements is provided in Chapter 5). Most states define the child's premium to be reasonable if it does not exceed 5 percent of the income of the parent carrying the insurance. The commissioners felt that 5 percent is too low because it often costs more than that for a parent to insure a child. Further, they believe this threshold will result in many uninsured children. In the advocates' opinions, the guideline should not even include health insurance and it should be a separate issue for two reasons: When children are covered under Medicaid, there are no premium costs. If there are insurance premiums for children not on Medicaid, the premiums should be included in the base obligation. Otherwise, parents squabble over the additional expense.

Almost all other states prorate the child's cost of health insurance between the parents and add it to the base child support amount, in much the same way as the additional expenses described in the previous section. The commissioners unanimously felt that this is how the guideline should treat health insurance. They believed that the way the guideline currently uses the health insurance premium as a deduction from income minimally affects the order amount and does not distribute the premium cost in an equitable way between the parents. According to the commissioners, the parent providing the insurance should receive more of either a reduction (for noncustodial parents) or an increase (for custodial parents) in the child support order.

Income of the Parents and Other Case Circumstances

This subsection considers the gender of the obligors, parental incomes, attributed incomes, attorney representation, order amounts, zero dollar and reserved orders, and time-sharing arrangements.

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[82] Previously, orders for health-care insurance were discussed in conjunction with orders addressing how the parents would pay for the children's uninsured health-care expenses because of the federal requirement of IV-D agencies to petition for either or both.

Gender of the Obligated Parents

The California guideline designates the obligated parent based on the parents' relative incomes and the time that each parent spends with the child. The calculation of support may result in the designation of the higher-income parent as the obligor even when this parent is the primary custodian of the children.

Exhibit 3-14. Parent Obligated to Pay Child Support in the 2010 Review

- Father
- Mother
- Neither or unspecified

5%
7%
87%
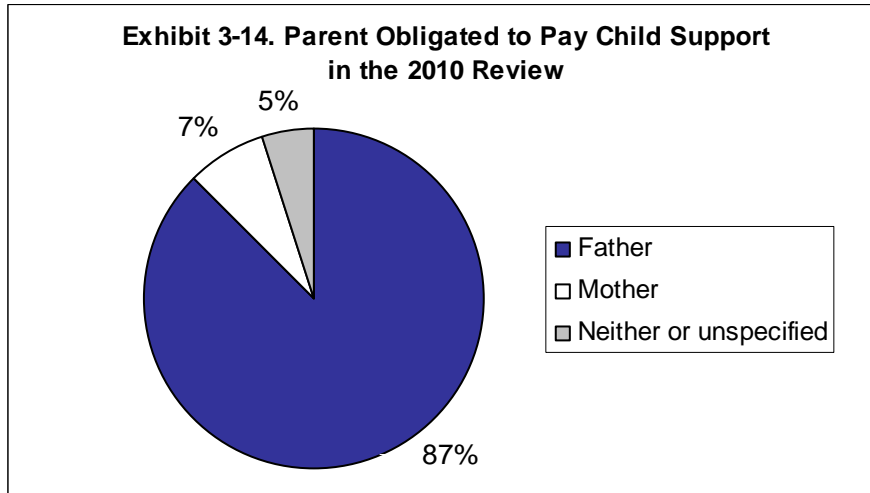
Exhibit 3-14 shows that the father is designated as the parent to pay child support in 87 percent of all cases. The mother is the obligor in 7 percent of the cases. In a few remaining cases (5 percent) the obligated parent is either unspecified or neither parent is required to pay support.

Parental Incomes

In general, average and median parental incomes were about the same or less than parental incomes in the last review. Undoubtedly, this reflects the economic recession.

As shown in Exhibit 3-15, neither gross nor net income was available for either parent in 19 percent of the cases reviewed for this study. One parent's income was unavailable in another 5 percent of the cases. In other words, 24 percent of the reviewed cases were missing income information for one or both parents. The breakdown of income information availability by IV-D cases was: not available for either parent (13% of IV-D cases); available for one parent but not the other (7 percent of IV-D cases); and available for both parents (61 percent of the IV-D cases). The breakdown of income information availability by non-IV-D cases was: not available for either

Exhibit 3-15. Parent's Income Information Available in the 2010 Review

- No information for either parent
- Information for only one parent
- Information for both parents

19%
5%
76%
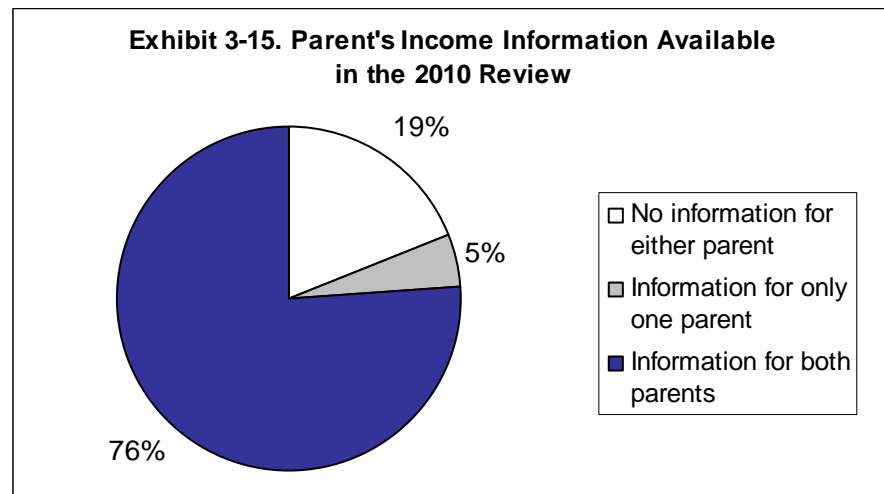
parent (25% of non-IV-D cases); available for one parent but not the other (4 percent of IV-D cases); and available for both parents (71 percent of the IV-D cases).

The cases that were missing at least one parent's income information were primarily IV-D default cases (35 percent) and non-IV-D stipulations (35 percent). In IV-D default cases, the obligor may not have provided income data, and the child support agency might not have been able to determine this information from sources such as the National Directory of New Hires. Stipulations in non-IV-D cases are examples in which the court is likely to be less demanding of supporting documentation.

Gross Income in the Guideline Calculation
Although the California guideline formula is based on net income, most commissioners (and other guideline users) start with gross income in the calculation of support. This approach is consistent with Family Code section 4059, which specifies that annual net disposable income of each parent shall be computed from his or her gross income.

Commissioners from the study counties generally find that starting from gross income results in a more accurate calculation and one more consistent with Family Code section 4059 than does the use of after-tax income information from sources such as a parent's paycheck stub. In fact, most commissioners use an automated child support calculator that starts from gross income and then calculates the parent's annual net disposable income and the amount of child support in accordance with Family Code section 4059.[83] The commissioners unanimously agree that this is the appropriate way to calculate the guideline. They felt that using gross income would result in unfair orders because some parents may be smarter tax planners than others. Taking into account other hardships or additional children from prior or subsequent relationships would also be difficult if gross income were used. The advocates, on the other hand, felt that if the guideline were to continue to be income based, basing the order on gross income would be more appropriate. They thought that this would obviate differences in the child support award that they believed exist when the parent's tax consequences are affected by that parent's subsequent spouse. For example, one focus group participant believed that if a low-income obligee married a second spouse with high income, the child support award would increase significantly because it would decrease the obligee's after-tax income available for support and hence increase the obligor's share of support. This would occur because the subsequent spouse's income effectively put the obligee in a higher tax bracket. However, the focus group did not discuss how and whether this outcome would be consistent with guideline provisions that limit the consideration of subsequent spouse income (Fam. Code, § 4057.5).

Starting from gross income has unintended outcomes. The first is that the case file will note the parent's gross income, not always the net income used to calculate the guideline amount. Inclusion of the printout generated by the automated guideline calculator in the case file would

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[83] In other words, most commissioners use what is called "standardized net." As discussed in Chapter 2, most gross-income guidelines are actually based on standardized net income, but the gross-net conversion is hidden in the child support schedule.

show how the net disposable income (and thus the basis for the award) was determined. The second consequence is that some low-income parents showed more net disposable income than gross income. For example, 23 percent of obligees with known income had more net disposable income than gross income. The average gross income among these obligees was $1,322 per month. Commissioners suggested that this outcome was likely because the federal earned income tax credit was applied in these cases. Interestingly, some of the commissioners also noted that an obligor might also be eligible for the earned income tax credit. However, only a small percentage (3 percent) of cases involved obligors with known income in which the obligor's net disposable income was greater than the obligor's gross income. The obligor's gross income in these cases averaged $1,527 per month.

Average and Median Income of the Parents
As shown in Exhibit 3-16, almost a quarter of the case files did not include income information for one or both parents. For mothers, 24 percent of the cases lacked income information. Among fathers, the figure was 21 percent. For both mothers and fathers, income information was more likely to be absent in non IV-D cases than in IV-D cases. The information presented in Exhibit 3-16 includes cases with imputed or presumed income.

Exhibit 3-16. Cases With Missing Income Information, by Parent Gender and IV-D Status
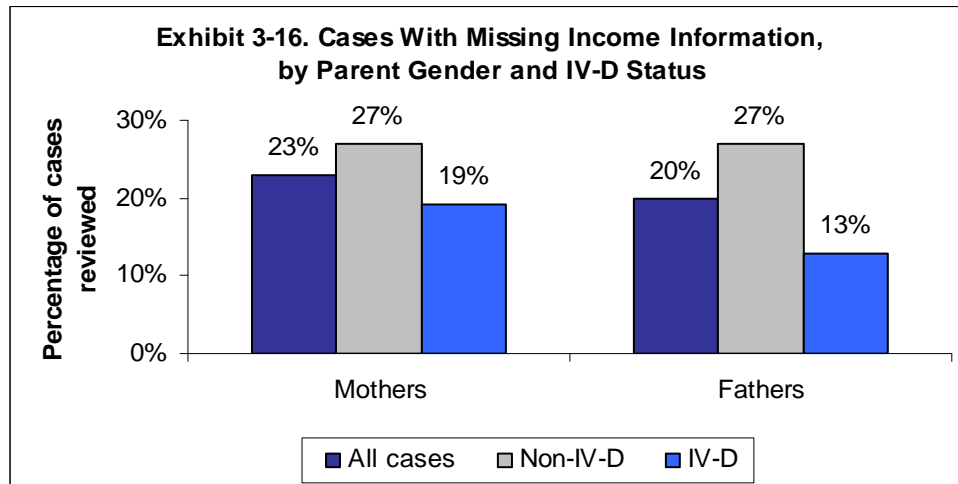
Exhibit 3-17 shows the percentages of fathers and mothers who have monthly gross and net incomes of $0. Cases with imputed or presumed incomes are excluded in this analysis. Of all men in the 2010 review, 15 percent show no gross monthly earnings and 17 percent show no monthly net earnings. Among women in the 2010 sample, 46 percent show no gross monthly earnings and 42 percent show no net monthly earnings.

Mothers and fathers in the IV-D caseload made up most of the parents with zero dollar incomes: 67 percent of mothers and 26 percent of fathers in the IV-D caseload had zero dollar gross and net incomes. In the non-IV-D caseload, 15 percent of mothers and 3 percent of fathers had zero gross income, while 17 percent of mothers and 4 percent of fathers had zero net income.

Exhibit 3-17. Parents With Net and Gross Incomes of $0

Fathers	17% / 15%
Mothers	46% / 42%

Percentage of cases reviewed

☐ Gross income is $0   ■ Net income is $0
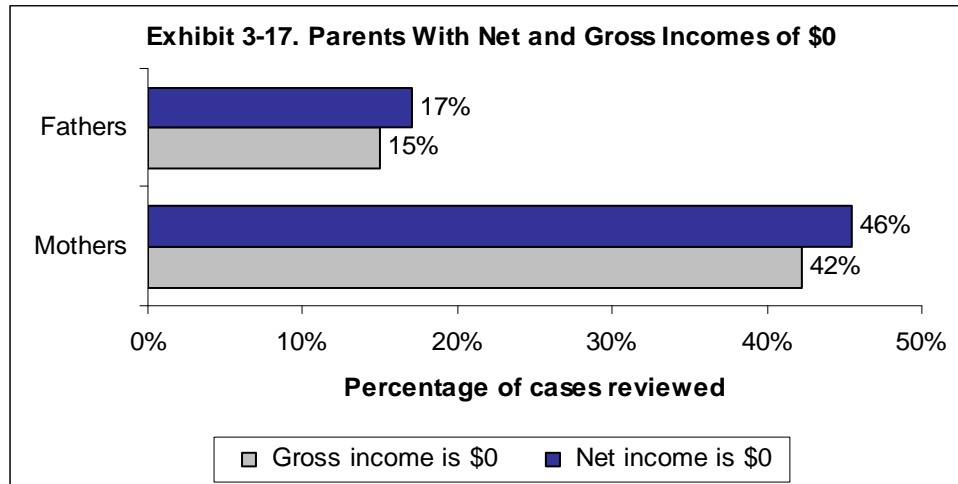
The commissioners and advocates felt that new case law requiring DCSS to give incarcerated parents zero incomes instead of imputing income may have contributed to the increase in zero-income parents. Some commissioners also noted that, instead of presuming income for other obligors, they will give the obligor zero monthly income.

The $0 earnings are included in the means presented in Exhibit 3-18. This exhibit shows that, for both men and women, the average gross and net monthly incomes are higher among non-IV-D than IV-D cases. For example, among fathers, the average monthly income for non-IV-D cases was $4,680, compared to $1,680 for IV-D cases. Mothers earned less than fathers in general and when controlling for IV-D status.

**Exhibit 3-18. Average Monthly Net and Gross Incomes
(Excludes Imputed- and Presumed-Income Cases)**

	Mother's gross income	Mother's net income	Father's gross income	Father's net income
■ All cases	$1,655	$1,153	$3,072	$2,144
☐ Non-IV-D	2,798	1,950	4,680	3,330
■ IV-D	619	550	1,680	1,282

■ All cases ☐ Non-IV-D ■ IV-D
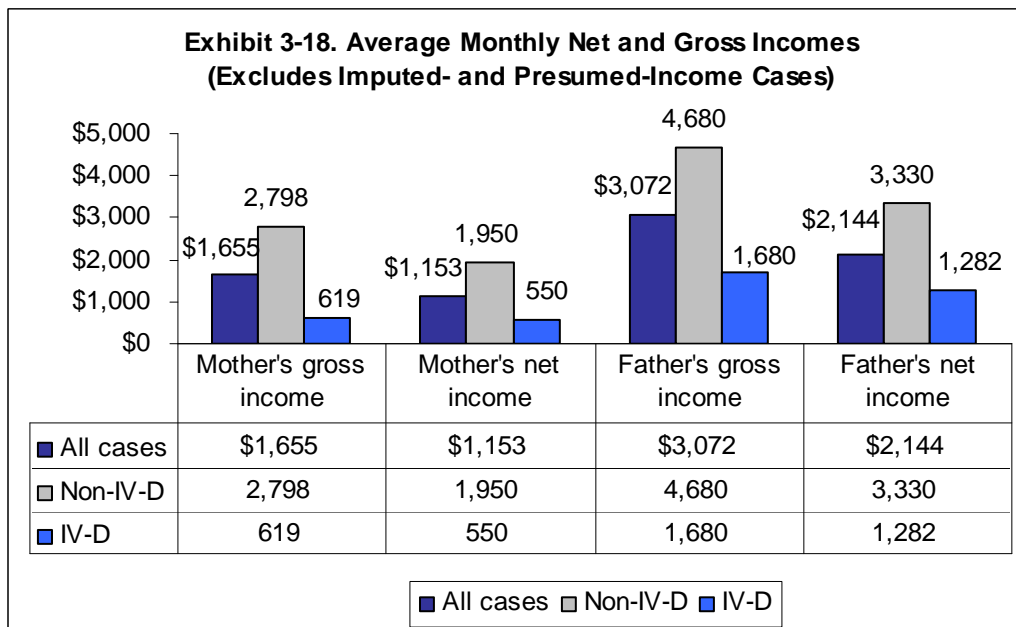
Exhibit 3-19 presents similar income comparisons using median earnings.

Exhibit 3-19. Median Monthly Net and Gross Incomes (Excludes Imputed- and Presumed-Income Cases)

	Mother's gross income	Mother's net income	Father's gross income	Father's net income
All cases	$975	$772	$2,100	$1,650
Non-IV-D	1,800	1,684	3,640	2,642
IV-D	0	0	1,387	1,202

All cases   Non-IV-D   IV-D
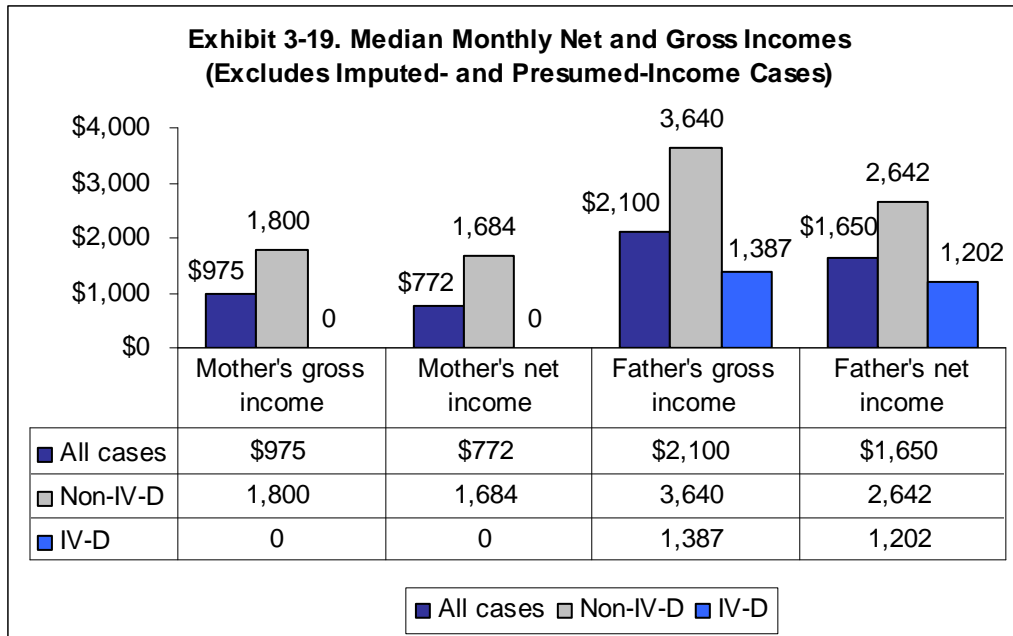
Relative Income of the Parents

Exhibit 3-20 compares cases with income information on both parents. It shows that mothers are about three times as likely as fathers to show no monthly earnings, while fathers are more than twice as likely as mothers to have monthly earnings above $4,000.

Exhibit 3-20. Comparison of Parents' Monthly Incomes in Cases With Income Information for Both Parents (Percentage of Cases)*

	Mother's Gross Income	Father's Gross Income
$0	38%	11%
$1– $1,000	9%	9%
$1,001–$2,000	23%	25%
$2,001–$3,000	11%	17%
$3,001–$4,000	6%	9%
$4,001 or more	12%	29%
Number	618	618

* Excludes cases with imputed, presumed, or missing income information.

Attributed Income

California attributes income to parents in two different ways, by imputing income or by presuming income. If the court does not have access to actual income information, under Family Code section 4058(b) the court may instead take into consideration a parent's earning potential and impute income if it is consistent with the best interest of the child. The court does this if it has information on a parent's prior work history. Family Code section 17400(d)(2), which is not part of the guideline, states that if the local child support agency can find no evidence of income or any information about an obligor's work history, the obligor's income is presumed at minimum wage for 40 hours per week. Using the current California minimum wage, an obligor's gross income when presumed is $1,386 per month.

As shown in Exhibit 3-21, the percentage of cases with imputed income decreased for both obligors and obligees from 7 percent in the last review to 3 percent in the current review, while the percentage of cases where income is presumed increased from 3 percent in the 2005 review to 5 percent in the 2010 review. All these changes are statistically significant. For IV-D cases alone, income was imputed or presumed for 15 percent of the obligors. This is not statistically different from the last review.

According to the commissioners, income imputation decreased because it is hard to show available work; therefore, they are less willing to impute. Both the commissioners and the advocates attribute the increase in presuming income to the higher rate of default cases in the review. Indeed, the data support this conclusion—93 percent of the cases where the obligor's income is presumed are orders entered by default.

Exhibit 3-21. Presumed and Imputed Income in the 2010 and 2005 Reviews
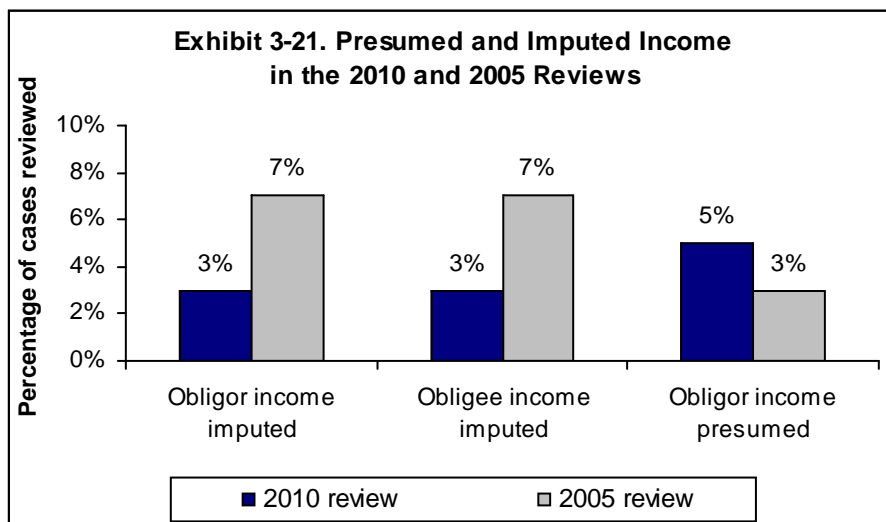
Attorney Representation

In this case file review, like the previous review, data collectors captured information on whether parents are represented by attorneys. If the child support agency establishes or modifies the child support order under Family Code section 17400, the agency does not represent either parent. For the purposes of this review, attorney representation is defined as private counsel retained by a parent.

As shown in Exhibit 3-22, attorney representation increased between 2001 and 2005, then fell from 2005 to 2010. In the 2010 review, neither parent retained a private attorney in 80 percent of the cases reviewed. Comparatively, in the 2005 review, neither parent was represented by an attorney in 65 percent of the cases. The percentage of cases where attorneys represented both parents fell from nearly one-quarter in 2005 to 12 percent in 2010. Only the obligor in the case retained counsel in 3 percent of the cases in 2010 review; this represents a 50 percent decrease from the 2005 rate of 6 percent. All these changes are statistically significant. There was no statistically significant change in the percentage of cases where just the obligee was represented by an attorney.

Further examination of attorney representation shows little difference in the percentage of parents retaining private counsel in IV-D cases in the 2001, 2005, and 2010 reviews. (Exhibit 3-23

Exhibit 3-22. Attorney Representation in the 2010, 2005, and 2001 Reviews
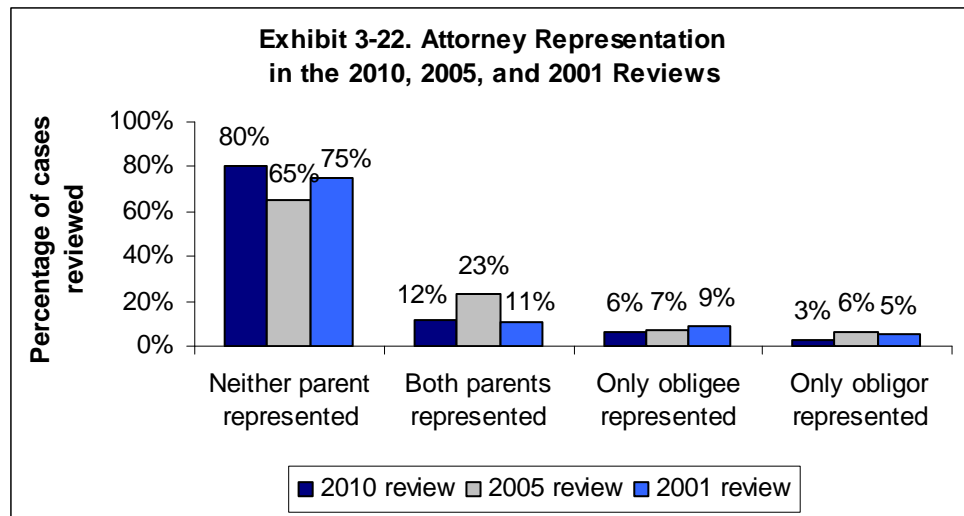
displays this information.) In non-IV-D cases, however, there were statistically significant changes between the 2005 and 2010 reviews in the percentages of cases where neither parent was represented and both parents were represented. As shown in Exhibit 3-24, neither parent retained private counsel in 62 percent of cases in 2010 review, compared with 36 percent of cases in the 2005 review. The percentage of cases where attorneys represented both parents decreased by 50 percent between the two latest study samples—from 44 percent in the 2005 review to 22 percent of cases in 2010 review.

These changes in attorney representation, however, have not significantly impacted the frequency of unrepresented litigants in hearings. Neither parent retained counsel in 67 percent of contested hearings in the 2001 review, 64 percent of contested hearings in 2005, and 62 percent of contested hearings in 2010. Neither of these changes is statistically significant.

Exhibit 3-23. Attorney Representation by Case Type in the 2010, 2005, and 2001 Reviews (Percentages of Cases)

	2010 Review	2005 Review	2001 Review
IV-D cases			
Neither parent represented	96%	95%	96%
Both parents represented	3	0	3
Only one parent represented	1	5	1
Number	634	567	506
Non-IV-D cases			
Neither parent represented*	62%	36%	53%
Both parents represented*	22	44	22
Only one parent represented	16	20	26
Number	578	535	485

*The difference between the groups is significant at <.05.

Number of Children Covered by the Orders

Exhibit 3-24. Number of Children Covered by the Orders in the 2010 Review

7% 2%
26%
65%

- ■ One Child
- ▫ Two Children
- ■ Three Children
- ▫ Four or More Children
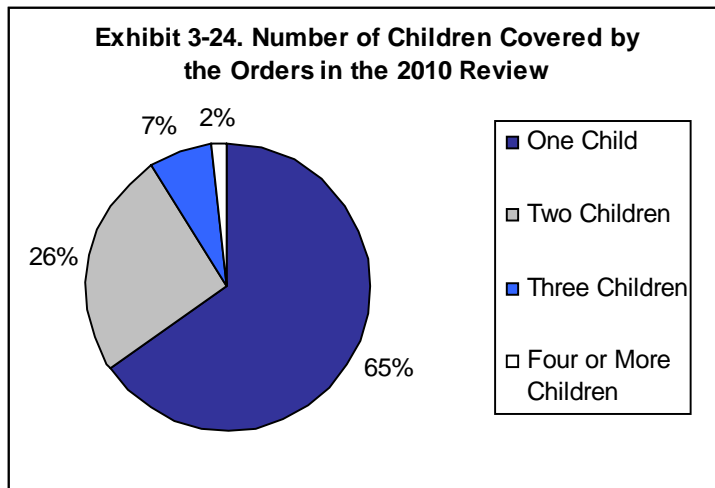
As shown in Exhibit 3-24, most orders cover only one child (65 percent), 26 percent cover two children, 7 percent cover three children, and 2 percent cover four children. Taken together, 91 percent of the cases provide child support for one or two children. These patterns are very consistent with those found in previous years, including 2005 and 2001.

Amount of the Child Support Order

Exhibit 3-25 shows the average monthly child support orders in 2005 and 2010 for all cases and for IV-D and non-IV-D cases. The exhibit does not break order levels down according to the number of children. As this exhibit shows, order levels between 2005 and 2010 have declined. For all cases, the average child support order in 2005 was $574 per month. In 2010 the comparable figure is $470. Among IV-D cases, average order levels declined from $341 to $286. For non-IV-D cases, the decline was from $795 to $685 per month.

Exhibit 3-25. Average Monthly Child Support Order Amounts in the 2010 and 2005 Reviews

Category	2010 review	2005 review
All orders	$470	$574
IV-D cases	$286	$341
Non-IV-D cases	$685	$795
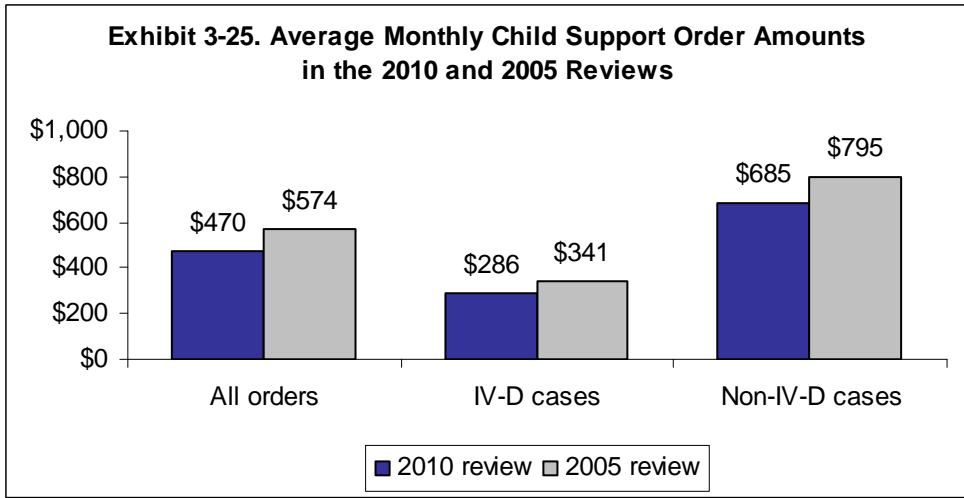
Similar declines in order levels occurred for parents with one child, two children, or three or more children. Exhibit 3-26 shows declines between 2005 and 2010 for IV-D and non-IV-D cases with various numbers of children.

Exhibit 3-26. Average Order Amounts by Case Type in the 2010 and 2005 Reviews

	2010 review	2005 review
One child		
All cases	$347	$430
IV-D	$247	$293
Non-IV-D	$517	$603
Two children		
All cases	$652	$764
IV-D	$365	$425
Non-IV-D	$805	$962
Three children		
All cases	$869	$933
IV-D	$570	$531
Non-IV-D	$1,080	$1,244

58
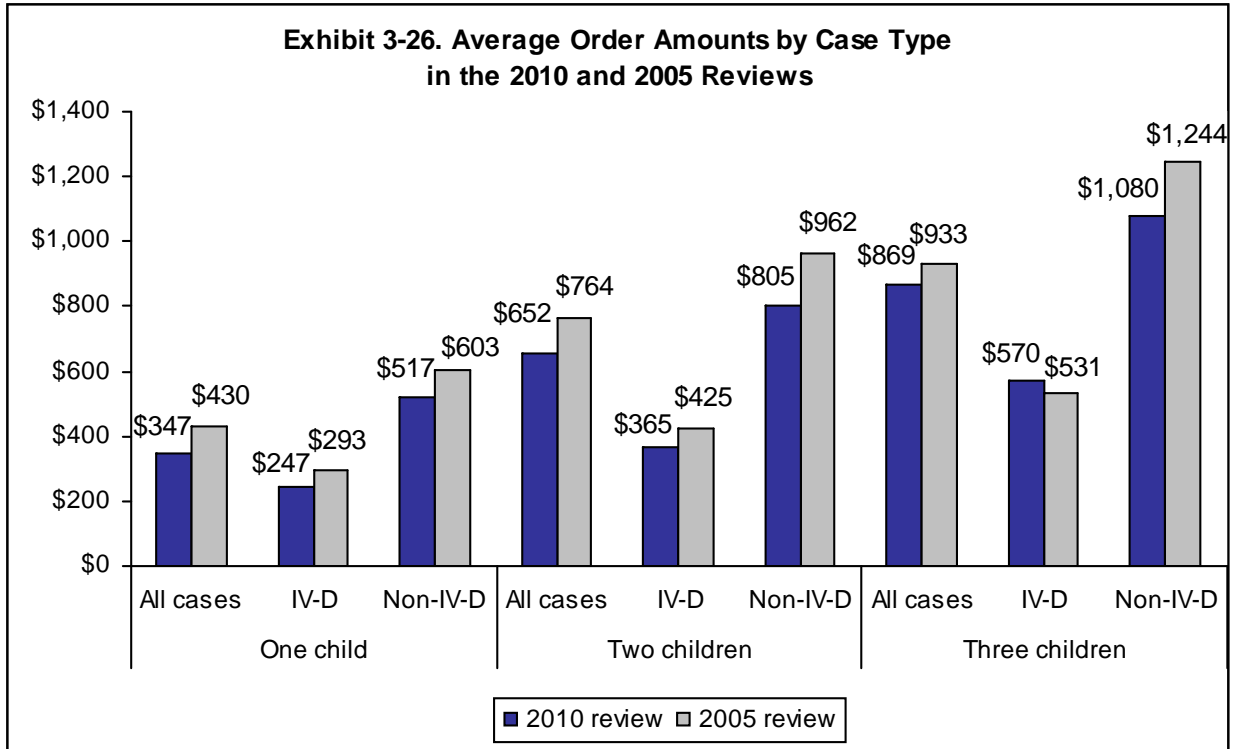
Exhibit 3-27 presents information on the median orders for all cases, all IV-D cases, and all non-IV-D cases.

Exhibit 3-27. Median Monthly Child Support Order Amounts in the 2010 and 2005 Reviews

A bar chart showing median monthly child support order amounts comparing the 2010 review and 2005 review across three categories. For All cases: 2010 review $324, 2005 review $400. For IV-D: 2010 review $252, 2005 review $293. For Non-IV-D: 2010 review $581, 2005 review $505.
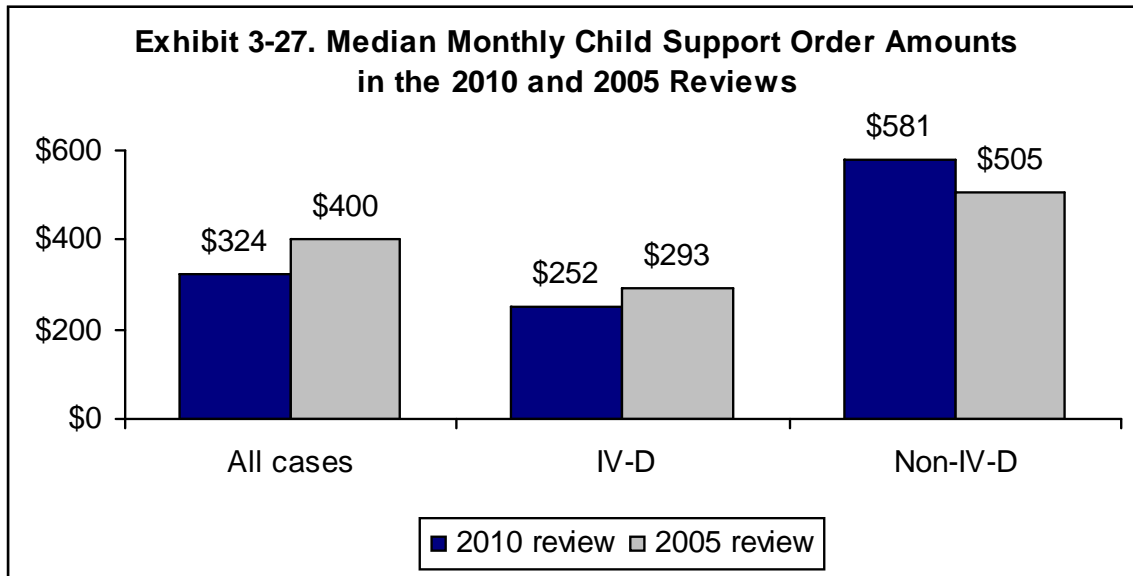
There are also some differences between the average 2010 orders in new versus modified cases. specifically:

- In 2010 IV-D cases, the average order amount in a new establishment case was $274, compared to $432 in modified orders.
- In 2010 non-IV-D cases, new orders averaged $671, while modifications averaged $888.

There were also some differences in order levels related to whether the order was established by default or stipulation or through a contested hearing. In 2010, default orders averaged $302, while those set in a contested hearing averaged $610 and stipulations averaged $599. Of course, income is related to order entry method. Average monthly gross incomes for obligors were $1,694 for those with default orders, compared to $3,593 and $4,001 for contested cases and stipulations, respectively.

Exhibit 3-28 shows significant differences between orders based on actual versus attributed (i.e., presumed or imputed) incomes. Overall, obligors with actual earnings had orders averaging $493 per month, while obligors with imputed incomes had orders averaging $237 per month. Similar differences exist in the IV-D and non-IV-D populations.

**Exhibit 3-28. Average Order Levels for Obligors Having Orders Established
With Attributed and Actual Earnings**

	Attributed Income	Actual Income
Average all cases	$237	$493
Average among IV-D cases	209	300
Average among non-IV-D cases	494	689

Child Support Order Levels as a Percentage of Obligor Income

Exhibit 3-29 shows the average amount of the obligor's monthly net income that is consumed by the monthly child support order. The analysis is limited to only those cases with known incomes. Cases where income is imputed or presumed are excluded. The exhibit shows that obligors with net earnings between $1,001 and $1,500 monthly pay approximately the same percentage of their incomes in child support (i.e., about 20 percent). It also shows that obligors earning more than $4,000 monthly pay 24 percent of their income. Although this is counterintuitive to the guideline formula, because the formula results in a declining percentage as in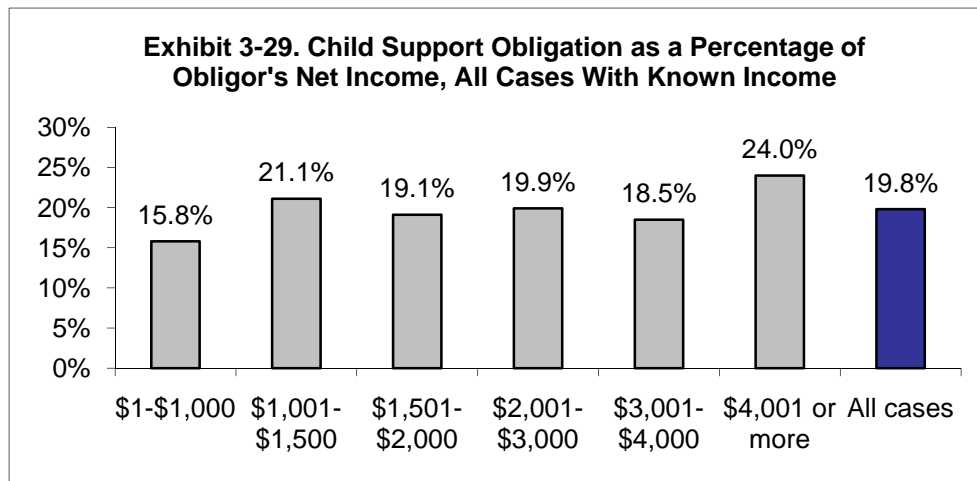come increases, case circumstances explain some of the difference. Obligors with incomes above $4,001 per month were more likely to have more children and hence higher orders.

Exhibit 3-29. Child Support Obligation as a Percentage of Obligor's Net Income, All Cases With Known Income

$1-$1,000	$1,001-$1,500	$1,501-$2,000	$2,001-$3,000	$3,001-$4,000	$4,001 or more	All cases
15.8%	21.1%	19.1%	19.9%	18.5%	24.0%	19.8%

Zero-Dollar and Reserved Orders

The California guideline results in a zero-dollar order if the obligor's income is $0 per month. Another situation where a zero-dollar order may be entered is when the parents have equal (or close to equal) incomes and time share. In these cases, the orders may come out to zero dollars or the order is so small that the parents deviate to a zero-dollar order.

In the 2010 review, 14 percent of the monthly child support orders are zero-dollar orders. This represents a statistically significant increase from the 2005 review, when 7 percent of the cases had zero-dollar orders. Most of the zero-dollar orders in the 2010 review (60 percent) were cases where the guideline resulted in a zero-dollar order, 17 percent of the zero-dollar orders were

deviations, and in 23 percent of these cases it was unknown whether the order was the result of a deviation from the guideline.

Both the commissioners and advocates felt that some of the zero-dollar orders can be attributed to incarcerated or disabled noncustodial parents. They felt that DCSS is doing a better job of locating incarcerated noncustodial parents to learn that they have no income instead of giving these parents a minimum order. The commissioners also noted an increase in default judgments that include a calculation that results in a zero-dollar order. For example, if there is no evidence of obligor income and no possibility for the obligor to earn any income, a zero-dollar order is entered.

In the 2010 review, 10 percent of the orders were listed as "reserved." The definition of the term "reserved" is not uniform. Indeed, during the focus group with commissioners, much of the conversation regarding the percentage of reserved orders focused on trying to determine what exactly constitutes a reserved order. In some cases, reserved orders may be entered when it appears that an obligor's income will change or become known in the near future. In this type of situation, courts specify an order amount but reserve jurisdiction to review and, if appropriate, modify the order when the new or complete information becomes available. Courts often specify a time for the review (e.g., in 60 days). During the focus group, the commissioners noted that these types of orders are often entered because reserving and changing an order is less cumbersome and time consuming than modifying an order.

Time-Sharing Arrangements

One of the main factors in California's child support guideline formula is shared physical responsibility. Specifically, Family Code section 4055(b)(1)(D) describes this component of the formula as the "approximate percentage of time that the high earner has or will have primary physical responsibility for the children compared to the other parent." On average, the child's time with the obligor in the case was 17 percent (up from 15 percent in the last review). The median amount of time with the obligor did not change from the 2005 to the 2010 review (it was 10 percent in both years).

Exhibit 3-30 gives more information on the percentage of time that the child spends with the obligor in IV-D and non-IV-D cases. As shown in the exhibit, obligors in the IV-D caseload tend to have less custodial time with the children than those in the non-IV-D caseload. The largest difference between the two groups is the obligors with zero primary physical responsibility of the child. Less than 10 percent of the non-IV-D obligors fell into this category, compared to 62

Exhibit 3-30. Percentage of Time the Child Spends With the Obligor in IV-D and Non-IV-D Cases (Percentage of Cases)

	IV-D Cases	Non-IV-D Cases
Zero percent*	62%	9%
1 to 20 percent*	23%	48%
21 to 40 percent*	7%	17%
41 percent or higher*	8%	26%
Number	463	439

* The difference between the groups is significant at <.05.

percent of the IV-D obligors. In these cases and when net income was known for both parents, the obligor was the higher earner in 69 percent and 68 percent of IV-D and non-IV-D cases, respectively.

Limitations of the Data and Analysis

As in previous reviews, the case file data were limited in several ways. The major limitation was missing or incomplete information. Exhibit 3-31 shows the percentage of cases in the 2010 review where the data collectors noted that certain information was missing in the case file.

Exhibit 3-31. Information Missing From the Case Files (Percentage of Cases)

	2010 Review (*n* = 1,226)
No documents on the result of calendared child support court events	10%
Parents' income not specified	19
Amount of child support not specified	9
Guideline amount not specified	22
Above or below guideline amount not specified	19

In addition to these missing data, financial statements or income and expense declarations were available in only about one-third of the court files. Data are missing in both IV-D and non-IV-D cases. When missing data are broken down by the order entry method, the majority of missing information is, not surprisingly, from cases that were entered either through default or stipulation. Specifically:

- Eighty-five percent of cases that are missing documents on the result of calendared child support court events were either stipulations or defaults;
- Stipulations and defaults make up 89 percent of the cases that do not list parents' income;
- Nearly all of the cases missing the child support amount (96 percent) were either defaults or stipulations; and
- Stipulations and defaults make up 88 percent of cases where the guideline amount was not specified or where an indication whether the order was above or below the guideline was not included.

The commissioners suggested that legislation could be passed to require the printout of the calculation to be attached to every case file. As previously stated, the commissioners also noted that some of this information may be available in their oral ruling but may not be included in the case file.

An additional limitation in the data is that the sample used for this review contained more new orders and fewer modified orders than the last review. It is impossible to know whether this reflects an actual trend or is an artifact of a difference between the data collection methods

employed in the reviews. Both focus groups did not believe this reflects an actual trend rather that is an artifact of the data collection method.

Chapter Summary

Since the last review of the California guideline, the guideline deviation rate has increased. There is less application of many guideline adjustments (e.g., hardship deduction) and orders for additional support (e.g., orders for the child's uninsured health-care expenses). There are more default orders. There are more zero orders. Even though the minimum wage has increased and the income threshold for applying the low-income threshold (i.e., incomes below $1,000 per net income) has not changed since the last guideline review, the low-income adjustment is being applied more frequently than it was during the last review. In general, average and median parental incomes are about the same or lower than they were during the last guideline review. Attorney representation is down. Although there are many other factors, the economic recession is the dominant factor explaining these trends.

CHAPTER 4

Low-Income Parents and
Child Support Guidelines

This chapter looks at how states address the application of child support guidelines to the low-income population. It starts with a brief overview of impoverished and low-income families. Next it discusses the challenge of dealing with the low-income population in child support guidelines. Finally, it discusses the three major provisions in state guidelines that affect order amounts for low-income families: income attribution provisions, adjustments to the guideline calculation based on child-rearing costs in cases of low income, and minimum orders.

Impoverished and Low-Income Families

A large percentage of American families have low incomes. In 2008, 15 percent of American families with children under age 18 years and almost one out of five children lived in poverty.[84] Although data are not yet available, researchers believe that the current economic recession has worsened the financial situation of families.

> The Great Recession of 2008 and 2009 has battered America's families. The unemployment rate has more than doubled since the start of the recession, topping 10 percent—the highest level in over a quarter of a century. In addition, families' capacity to weather economic downturns has been diminished as savings and assets have eroded due to simultaneous collapses in the housing and stock markets and the tightening of consumer credit. Even though the economy started growing again in the second half of 2009, most forecasters expect that it will take years for unemployment and family incomes to return to their pre-recession levels. [85]

Single-parent families are even more likely to live in poverty. Nationally, the poverty rate for single-parent families is 36 percent, which is more than twice the poverty rate for all families with children under age 18.[86] The trend in California is slightly worse. Nearly 39 percent of California families with a female householder (no husband present) and related children under 18 years of age are below the poverty level, compared to 18 percent for all California families with related children under 18.[87] The disparity between the poverty rates among female householders

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[84] Calculated from U.S. Census Bur. American Factfinder, "S1702. Poverty Status in the Past 12 Months of Families" and "S0901. Children Characteristics," downloaded on April 4, 2010, from *http://factfinder.census.gov.*
[85] Gregory Acs & Austin Nichols, "America Insecure: Changes in the Economic Security of American Families," (Urban Inst., Feb. 1, 2010), *www.urban.org/publications/412055.html.*
[86] (U.S. Census Bur. American FactFinder, *supra* note 84.)
[87] Calculated from U.S. Census Bur. American FactFinder, "B17006. Poverty Status in the Past 12 Months of Related Children Under 18 Years By Family Type And By Age of Related Children Under 18 Years," *http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=datasets_1&_lang=en &_ts=* (as of Mar. 30, 2010).

and all families is even more pronounced when only those families with very young children are considered. Almost half (46 percent) of California female householders, compared to 19 percent of all California families, with related children under 5 years old live in poverty.[88]

Moreover, a recent study finds that the poverty rate among California children is growing.[89] The study forecasts that the number of California children living in poverty will increase by 850,000 within two years. The same study also notes that the federal poverty level is not sensitive to California's living costs. The authors suggest that the actual number of California families unable to meet their basic needs is twice the number of California families with incomes below the federal poverty level. Their projections suggest that as many as 2.7 million California children may live in households that cannot meet their basic needs.

The population served by state-run child support services agencies, which mostly comprises families that currently or formerly received public assistance, is particularly disadvantaged. Perhaps the best source for looking at the characteristics of custodial parent families using the services of state-run agencies (also called the IV-D system) is an analysis of national data completed by the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. The last available report, from 2004, uses data from 2001 and earlier surveys. This report found that about 41 percent of all IV-D families had a family income under $20,000 in 2001 and that about 57 percent had an income under $30,000.[90] About one-third of the IV-D families had incomes below the poverty level, and about three-fifths had incomes below 200 percent of the poverty level. Nearly 16 percent of IV-D families were in "deep poverty," with incomes below 50 percent of the poverty level.

Research from other national survey data finds that the custodial parents receiving child support and the noncustodial parents paying child support tend to mirror each other with regard to income status, as well as educational levels and barriers to employment.[91] Although somewhat dated, a 2003 report on child support arrears is still perhaps the best source of information on the income status of noncustodial parents in California.[92] Some of the report's findings are as follows:

- Parents with child support arrears have lower earnings than other California workers. In 1999, parents with child support arrears had median earnings of $14,110, compared to $16,635 for other California workers.[93]

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[88] *Ibid*.

[89] Lucile Packard Foundation for Children's Health, *One in Four CA Children May Live in Poverty This Year* (news release, Jan. 6, 2010), *www.lpfch.org/newsroom/releases/mediaalertjan6-10.html*.

[90] Linda Mellgren et al., *Characteristics of Families Using Title IV-D Services in 1999 and 2001* (Office of Human Services Policy, Oct.2004), *http://aspe.hhs.gov/HSP/CSE-Char04/index.htm*.

[91] Elaine Sorensen & Chava Zibman, "Poor Dads Who Don't Pay Child Support: Deadbeats or Disadvantaged?," *New Federalism: National Survey of America's Families* (Urban Inst., Apr. 2001), *www.urban.org/UploadedPDF/anf_b30.pdf*.

[92] Elaine Sorensen et al., "Examining Child Support Arrears in California: The Collectibility Study" (Urban Inst., Mar. 2003), *www.childsup.ca.gov/Portals/0/resources/docs/reports/2003/collectibility2003-05.pdf*.

[93] *Id*. at p. 6.

- More than 60 percent of parents with child support arrears in 1999 had recent (reported) net incomes below $10,000. A quarter of the parents had no reported recent income, and 36 percent had reported income of less than $10,000.[94]

Not knowing the obligor's income or income history affects the support award amount. California Family Code section 17400(d)(2) provides that when this is the circumstance in IV-D cases, full-time minimum wage earnings are to be presumed as the obligor's income. As discussed in more detail, this may overstate the obligor's income, particularly if he or she is involuntarily unemployed or can find only part-time work.

National research is consistent with the California research and shows that obligors, particularly young nonmarital fathers, are a disadvantaged group with low incomes. One source of national research on nonmarital fathers comes from the *Fragile Families and Child Wellbeing Study*.[95] The most comprehensive study on nonmarital births, it followed a cohort of parents and their unborn children in 20 U.S. cities, finding that just 76 percent of the fathers were employed in a regular job and on average earned just over $16,000 per year.[96]

Researchers suggest that many young, unwed fathers have difficulty supporting themselves, much less a child. One study estimates that at least 16 percent, and possibly as many as 33 percent, of young noncustodial fathers do not pay child support and are unable to do so without further impoverishing themselves.[97] These fathers tend to be young, are disproportionately African American, and have limited education.[98] Only 43 percent of low-income, nonpaying fathers work in the labor market, and one-third have not held a job for more than three years.[99]

Because the majority of noncustodial parents are male, there are limited data sources and analysis regarding female noncustodial parents. The only study that examines female noncustodial parents, however, found that they are similar to noncustodial parents but earn less and are likely to have some children living with them.[100]

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[94] *Id*. at p. 7.

[95] Sara McLanahan et al., *The Fragile Families and Child Wellbeing Study: Baseline National Report* (Bendheim-Thoman Center for Research on Child Wellbeing, Mar. 2003), *www.fragilefamilies.princeton.edu/documents/nationalreport.pdf.*

[96] Christina Norland, *Unwed Fathers, the Underground Economy, and Child Support Policy,* Fragile Families Brief, No. 3, (Bendheim-Thoman Center for Research on Child Wellbeing, Jan. 2001), *www.fragilefamilies.princeton.edu/briefs/researchbrief3.pdf.*

[97] Ronald Mincy & Elaine Sorensen, "Deadbeats and Turnips in Child Support Reform" (Dec. 1998) 17(1) *J. Policy Analysis & Management* 44–51. This study finds that about 39 percent of young custodial mothers and their children live in poverty. Young custodial fathers, therefore, are almost as likely to live in a poor family or have poverty-level incomes as young custodial mothers.

[98] Elaine Sorensen, "Obligating Dads: Helping Low-Income Noncustodial Fathers Do More for Their Children," (Urban Inst., Mar. 1999), *www.urban.org/publications/309214.html.*

[99] Sorensen & Zibman, *supra* note 91.

[100] Liliana Sousa & Elaine Sorensen, "The Economic Reality of Nonresident Mothers and Their Children," (Urban Inst., 2006).

The current employment and earnings of noncustodial parents are also undoubtedly worse because of the economic recession. At the time this study was conducted, the most recent California employment data available (February 2010) indicated that the number of unemployed Californians had increased by over 400,000 in the previous year.[101] With an unemployment rate of 12.5 percent, February 2010 marked California's 40th consecutive month of unemployment increases. Growth in underemployment is also a problem. The underemployment rate, which includes part-timers and people who want to work but have given up looking, reached about 20 percent in California as of January 2010.[102]

Unemployment patterns are even worse for racial and ethnic minorities, which increasingly characterize the child support caseload. As of 2002, almost half (44 percent) of the nation's custodial parents were minorities.[103] And in March 2010, while unemployment stood at 8.8 percent for whites, it was 12.6 percent for Hispanics and 16.5 percent for African Americans.[104]

The low-income status of much of the child support population, both custodial and noncustodial parents, poses challenges in setting child support order amounts. When both parents are poor, there is simply not enough money to go around. This makes decisions about how to divide up the family's money very difficult and guarantees that no matter how it is divided, the children's needs will still not be met.

Guideline Amounts at Low Incomes

Many researchers and policymakers argue that current child support guidelines may not be sensitive enough to the circumstances of low-income noncustodial parents.[105] They contend that setting the child support guideline too high for these parents may have negative consequences for both parents and children. According to some experts, some child support guidelines are too regressive, requiring low-income noncustodial parents to pay a larger share of their income toward child support than higher-income noncustodial parents.[106] One reason for this pattern is

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[101] Cal. Employment Development Dept., *February 2010 California Employment Highlights* (Mar. 26, 2010), *www.calmis.ca.gov/file/lfmonth/Employment-Highlights.pdf.*

[102] Matthew Scott, "Underemployment is a Growing Problem, Even as the Job Market Turns," *Daily Finance* (Mar. 3, 2010), *www.dailyfinance.com/story/underemployment-a-growing-problem-even-as-job-market-turns/19365801/#.*

[103] Spectrum Consulting, *Minority Families and Child Support: Data Analysis* (U.S. Dept. of Health & Human Services, Dec. 2007), *www.acf.hhs.gov/programs/cse/pol/DCL/2007/dcl-07-43a.pdf.*

[104] Bur. of Labor Statistics, U.S. Dept. of Labor, *Economic News Release* (Apr. 2, 2010), tables A-2 & A-3, *www.bls.gov/news.release/empsit.htm.*

[105] For example, see Maureen A. Pirog, Brooks Elliott & Tara Grieshop, "Presumptive State Child Support Guidelines" (Spring 2003) 12(1) *Policy Currents* 16–22, *www.apsapolicysection.org/vol12_1/121.pdf*; see Joan Entmacher, *Dollars and Sense: Improving the Determination of Child Support Obligations for Low-Income Mothers, Fathers, and Children* (Nat. Women's Law Center & Center on Fathers, Families & Public Policy. Mar. 2002), *www.acf.hhs.gov/programs/cse/pubs/2002/reports/commonground.pdf*; see also Vicki Turetsky, *Realistic Child Support Policies for Low Income Fathers* (Center for Law & Social Policy, Mar. 2000), *www.clasp.org/admin/site/publications/files/0061.pdf.*

[106] For example, see Daniel Meyer, "The Effect of Child Support on the Economic Status of Nonresident Fathers," ch. 3 in *Fathers Under Fire: The Revolution in Child Support Enforcement,* ed. Irwin Garfinkel et al. (Russell Sage Foundation, 1999); (Sorensen & Zibman, *supra* note 91); (Maureen A. Pirog et al., *supra* note 105).

that state guidelines are generally based on the cost of raising children, which does not increase proportionally as income levels rise. The reality is that poor families often have expenses that exceed their income, while high-income families have costs that fall below or match their income and are able to accumulate wealth through savings, the purchase of a home, or other means. In states that base their guideline formula on actual child-rearing expenditures, the result is that the percentage of income assigned to child support is much higher at low incomes than the percentage of income assigned to child support at high incomes.

The problem of high percentage orders for low-income obligors is exacerbated if their actual earnings are less than what is used to determine the order amount under the guidelines. This occurs if the court or tribunal attributes income when the obligated parent's income is unknown or there is little or erratic documented wage and employment history. This is also a guidelines issue, because most state guidelines provide for income attribution. As discussed earlier, California statute provides for two types of attributed income, "imputed," and "presumed" income. [107] Further, as discussed later, presumed income is a particular problem in California IV-D cases because it requires attributing income at full-time minimum wage earnings when the obligor's income or income is history is unknown even though local employment opportunities may be limited.[108]

The potential consequences if child support obligations are set too high for low-income obligors include:

- Potential inability of obligors to meet their own needs at a subsistence level;
- Reduction of the obligor's incentive to work and to work in the mainstream economy;
- Possibility that nonpayment of child support may reduce parent-child involvement[109] and, in turn, have negative consequences on the child's outcomes;[110] and
- Increased compliance and enforcement issues and accumulation of arrears.

Each of these issues is discussed in more detail below.

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[107] For the purpose of comparing California to other states, the term "attributed income" is used to encompass any situation where an income other than the parent's actual income is used to determine the support award. As discussed later, "attributed income" can encompass either "imputed income" or "presumed income," both of which are defined in California statute. Most states, however, just use one term to mean the same thing and use the term "imputed income." In other words, the distinction between imputed and presumed income is unique to California.

[108] Fifteen percent of California's IV-D orders in federal fiscal year 2008–2009 were established by default using presumed income. In other words, income was presumed to the obligor in about 9,400 orders established in federal fiscal year 2008–2009. Cal. Dept. of Child Support Services, "Comparative Data for Managing Program Performance," *Federal Fiscal Year 2008* (Apr. 2009), table 3.12, *www.childsup.ca.gov/Reports/tabid/147/Default.aspx.*

[109] Judith Seltzer, Sara McLanahan & Thomas Hanson, "Will Child Support Enforcement Increase Father-Child Contact and Parental Conflict After Separation?," ch. 6 in *Fathers Under Fire: The Revolution in Child Support Enforcement,* ed. Irwin Garfinkel et al. (Russell Sage Foundation, 1999).

[110] Laura Argys et al., "The Impact of Child Support on Cognitive Outcomes of Young Children" (May 1998) 35(2) *Demography* 159–173; Virginia Knox & Mary Jo Bane, "Child Support and Schooling," ch. 10 in *Child Support and Child Well-being,* ed., Irwin Garfinkel et al. (Urban Inst. Press, 1994).

High Orders and the Obligor's Subsistence

A high child support order can drive an impoverished obligor further into poverty. For those obligors living just above poverty level, payment of a high order amount may not leave the obligor with sufficient income to live at a subsistence level.[111] For example, if an obligor with one child works full-time at minimum wage ($8 per hour in California), his or her monthly gross income would be $1,386, which is equivalent to $1,200 net per month after taxes. According to the state guideline, the child support amount would be $300 per month in this case.[112] After payment of taxes and child support, this leaves the obligor with spendable income of $900 per month. Since the 2009 federal poverty level for one person is $10,830 per year ($902.50), paying the child support order would render the obligor impoverished. If the obligor owes arrears, he or she may be required to pay additional amounts for arrears and interest on the arrears. In some cases, up to 65 percent of income may be withheld from the obligor's paycheck to satisfy the child support debt.

The 2003 study titled *Examining Child Support Arrears in California: The Collectibility Study* revealed that many parents owing child support arrears had inordinately high orders.[113] For example, the study found that parents owing child support arrears with incomes of $0 to $5,000 net per year had a median child support order of $280 a month (about $3,360 per year) and an average order that was twice their income. Even parents owing child support arrears with net annual incomes between $5,000 and $10,000 faced inordinately high orders. For this group, the median monthly order of $276 a month ($3,312 per year) represents 44 percent of their net income. Order amounts that exceed an obligor's actual income can occur if the income amount used to determine support is greater than the obligor's actual income. This occurs when income is imputed[114] or presumed[115] or the obligor's income decreases after the order is established and the order is not modified.

Other national studies find similar trends in order amounts among low-income obligors. For example, an evaluation of noncustodial parents served by responsible fatherhood programs funded by the Office of Child Support Enforcement in four states found that child support obligations comprised 57 to 125 percent of monthly earnings for participating noncustodial parents who earned $500 per month or less. In contrast, among noncustodial parents with monthly incomes that exceeded $2,000, child support obligations were only 10 to 23 percent.[116] Indeed, other studies estimate that 25 percent of poor, nonresident fathers who actually pay child

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[111] *Ibid.*

[112] This is based on the child support calculator provided by DCSS at *www.cse.ca.gov/ChildSupport/cse/guidelineCalculator*. The calculation assumes that the other parent has no income and no timesharing, which is the common situation when support is being determined in public assistance cases.

[113] Sorensen & Zibman, *supra* note 91 at p. 9.

[114] As will be further discussed later in this chapter, Family Code, section 4058(b) provides for income imputation.

[115] As will be further discussed later in this chapter, Family Code section 17400(d)(2), which falls outside the Statewide Uniform Guideline, provides for income presumption.

[116] Jessica Pearson et al., *OCSE Responsible Fatherhood Programs: Client Characteristics and Program Outcomes,* (U.S. Dept. of Health & Human Services, Sept. 2003).

support pay more than 50 percent of their income in child support, while only 2 percent of nonpoor fathers pay such a large amount.[117]

If low-income, noncustodial parents are pushed further into poverty, their remaining spendable income may not be sufficient to cover their basic needs. This is especially true in cities with higher housing costs. The net effect of disproportionately high child support orders could be higher rates of homelessness and a reduced ability to pay for work-related transportation, both of which would jeopardize an obligor's ability to obtain employment and earn an income. In turn, because payments and parent-child contact time are correlated, inability to pay support could reduce the noncustodial parents' contact with the child, which may be detrimental to child outcomes.

High Orders and Work Disincentives

Some research findings indicate that child support orders that are set too high for low-income obligors may be a disincentive to work and may drive these obligors into the underground economy, where their earnings are not subject to immediate wage withholding to pay child support. The exact extent of this potential problem is not well understood, although it is clear that working in the underground economy is often an option for obligors.

The *Fragile Families and Child Wellbeing Study,*[118] which interviewed unmarried fathers shortly after the birth of their children, suggests that 3 in 10 unmarried fathers participate in some underground work activity.[119] Most of these fathers combined underground with regular sector work. Only 1.3 percent of fathers worked solely in the irregular sector.

Basic economic theory predicts that some level of effective marginal tax rates produces a disincentive to work. It also makes intuitive sense that if child support orders are set too high and the obligor does not have enough money to live on, he or she may seek work in the underground economy where income is harder to detect and not subject to wage garnishment. Although research on the issue is limited, some studies have found that child support enforcement problems stemming from the inability to pay child support may decrease aboveground work[120] and drive some obligors into the underground economy.[121] Another research study suggests that high arrears balances substantially reduce both child support payments and formal earnings for fathers.[122] More research is needed to fully address these issues. For example, one study found

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[117] Elaine Sorensen & Helen Oliver, "Policy Reforms Are Needed to Increase Child Support from Poor Fathers," (Urban Inst., Apr. 2002), *www.urban.org/UploadedPDF/410477.pdf*.

[118] McLanahan et al., *supra* note 95.

[119] Norland, *supra* note 96.

[120] Harry Holzer, Paul Offner & Elaine Sorensen, "Declining Employment Among Young Black Less-Educated Men: The Role of Incarceration and Child Support," (Spring 2005) 24(2) *J. Policy Analysis & Management* 329–350.

[121] Maureen Waller & Robert Plotnick, "Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research" (Winter 2001) 20(1) *J. Policy Analysis & Management* 89–110.

[122] Maria Cancian, Carolyn Heinrich & Yiyoon Chung, "Does Debt Discourage Employment and Payment of Child Support? Evidence from a Natural Experiment," Inst. for Research on Poverty Discussion Paper No. 1366-09 (Univ. of Wisconsin, July 2009).

that among fathers initially working in the regular and underground sectors, punitive child support enforcement remedies (e.g., wage garnishment and driver's license suspension) are associated with fewer hours of underground employment.[123]

Payments, Parent-Child Contact, and Child Outcomes

In addition to depressing rates of child support payment among low-income obligors, high child support order levels may attenuate parent-child relationships. Most research finds a positive correlation between child support payments and father-child contact.[124] This is an important consideration because research finds that paternal involvement is significantly associated with reduced rates of out-of-wedlock childbearing, high school dropout rates, substance abuse, and juvenile delinquency.[125]

A related issue is the potential impact of high orders on the affordability of decent housing for the noncustodial parent. California has some of the highest housing costs in the nation. The noncustodial parent's access to the children could be jeopardized if he or she does not have adequate income to provide a safe and sanitary place for visitation to take place.

Compliance and the Accumulation of Arrears

Compliance issues arise if the child support order is set too high for low-income noncustodial parents and they do not pay. Various studies analyzing payment data confirm that this does indeed occur.[126] Further, noncompliance of child support payment leads to the accumulation of arrears. A specific finding from Washington State is that arrears tend to grow when the child support obligation is set above 20 percent of the obligor's earnings.[127]

Nonpayment of child support increases the burden on child support agencies to enforce child support, which is particularly difficult to accomplish with obligors who have little income. The federal Office of Child Support Enforcement (OCSE) reports that over $100 billion in arrears has accumulated nationwide since the child support program began in 1975.[128] The same OCSE report forecasts that less than half of the current arrears balance will be collected in the next 10 years and also that any collections will be outpaced by the growth of new arrears. A similar

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[123] Lauren Rich, Irwin Garfinkel & Qin Gao, "Child Support Enforcement Policy and Unmarried Fathers' Employment in the Underground and Regular Economies," Center for Research on Child Wellbeing Working Paper No. 2004-03-FF (Princeton Univ., May 2006).

[124] Seltzer et al., *supra* note 109.

[125] Suzanne Le Menestrel, "What Do Fathers Contribute to Children's Well-Being?," *Research Brief* (Child Trends, May 1999), *www.childtrends.org/files/dadchild.pdf.*

[126] Chien-Chung Huang, Ronald Mincy & Irwin Garfinkel, "Child Support Obligations and Low-Income Fathers" (Dec. 2005) 67(4) *J. Marriage & Family* 1213–1225; see also Judi Bartfeld & Daniel Meyer, "Are There Really Deadbeat Dads? The Relationship Between Ability to Pay, Enforcement, and Compliance in Nonmarital Child Support Cases," Inst. for Research on Poverty Discussion Paper No. 994-93 (Univ. of Wisconsin, Feb. 1993).

[127] Carl Formosa & Washington State Div. of Child Support Enforcement, *Determining the Composition and Collectability of Child Support Arrearages,* vol. I, *The Longitudinal Analysis* (U.S. Office of Child Support Enforcement, May 2003).

[128] Office of Child Support Enforcement, U.S. Dept. of Health & Human Services, The *Story behind the Numbers: Understanding and Managing Child Support Debt* (May 2008), *www.acf.hhs.gov/programs/cse/pol/IM/2008/im-08-05a.pdf.*

report was prepared for California in 2003.[129] It found that as of March 2000, California had accumulated $14 billion in child support arrears, only 25 percent of which would be paid within 10 years, and that the amount of arrears owed statewide would continue to grow. By 2008, almost $20 billion in arrears were owed in California.[130] One reason for this continued growth is that California assesses a 10 percent interest rate on arrears owed to the state.

The OCSE report attributes the causes of substantial arrears growth to states' charging interest on arrears and lack of compliance with current child support orders, particularly among obligors with no or low reported income.[131] Similar findings were revealed in the California report.

Recognizing this problem, OCSE has embarked on the "Project to Avoid Increasing Delinquencies" (PAID).[132] PAID recommends policies to states that will increase collection of current support and prevent and reduce arrears. This includes policies that can be addressed in state child support guidelines, such as setting appropriate orders for parents with a limited ability to pay by providing low-income adjustments to state guideline formulas and attributing income at a reasonable standard for parents whose income information is not available.[133]

Best Interest of the Child and the Policy Dilemma

The best interest of the children is a common objective when setting public policy. The importance of child support for families and children is well documented. Research suggests that the receipt of child support helps welfare recipients leave welfare for work,[134] remain off of welfare once they have left[135] and reduces poverty.[136] One study showed that child support represented 26 percent of a family's income in those low-income families that receive child support.[137] In these families, child support was a more important source of income than cash assistance. For those poor children who receive child support but not welfare, child support represented over one-third of their annual family income. Research also shows that child support enforcement has other positive effects on child outcomes, including a positive effect on young children's cognitive development[138] and educational attainment.[139] In addition, some evidence

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[129] Sorensen et al., *supra* note 92.

[130] Cal. Dept. of Child Support Services, "Comparative Data for Managing Program Performance," *Federal Fiscal Year 2008* (Apr. 2009), table 7.2, *www.childsup.ca.gov/Reports/tabid/147/Default.aspx.*

[131] Office of Child Support Enforcement, *supra* note 128.

[132] Office of Child Support Enforcement, U.S. Dept. of Health & Human Services, Project *Avoid Increasing Arrears: Practices Guide: Version 2* (July 2008), */www.acf.hhs.gov/programs/cse/pol/DCL/2007/dcl-07-17a.pdf.*

[133] The specific recommendation on page 2 of the OCSE practices guide is to "include provisions for low-income NCPs [noncustodial parents], such as a maximum percentage of income or a self-support reserve, to accommodate the NCP's basic needs."

[134] Chien-Chung Huang, James Kunz & Irwin Garfinkel, "The Effect of Child Support on Welfare Exits and Re-Entries" (Autumn 2002) 21(4) *J. Policy Analysis & Management* 557–576.

[135] Olivia Golden, Asst. Sect. for Admin. of Children & Family, hearing before House Com. on Ways and Means, Subcom. on Human Resources, 106th Cong. (May 18, 2000); see also Chien-Chung Huang, Irwin Garfinkel & Jane Waldfogel "Child Support and Welfare Caseloads," Inst. for Research on Poverty Discussion Paper No. 1218-00 (Univ. of Wisconsin, Dec. 2000).

[136] Elaine Sorensen & Chava Zibman, "Child Support Offers Some Protection Against Poverty," New Federalism, No. B-10, (Urban Inst., Mar. 2000), *www.urban.org/publications/309440.html.*

[137] *Ibid.*

[138] Argys et al., *supra* note 110.

suggests that child support enforcement lowers the rates of out-of-wedlock births and divorces.[140]

Still, it is important to note that while child support helps close the poverty gap among children, it cannot alleviate poverty in and of itself. Experts almost universally agree that child support must be coupled with other financial supports to improve the economic security of poor families.[141] Determining the appropriate order amount when both the custodial parent and the noncustodial parent have low incomes remains a difficult policy decision. The National Women's Law Center and the Center for Fathers and Families and Public Policy brought together advocates of low-income mothers and fathers to develop and advance public policy recommendations on child support, including recommendations for child support guidelines.[142] They concluded:

> Whatever philosophical statement they [the representatives] thought the guidelines should make about the obligations of each parent and society for the support of children, they recognized that setting awards for low-income noncustodial parents at an unrealistically level is unlikely to produce much additional income, and could be counterproductive.[143]

State Solutions

State solutions to the dilemma of setting child support orders for low-income noncustodial parents center around three major provisions:

- Income attribution policies;
- Thresholds and formulas for applying low-income adjustments; and
- Minimum orders.

Each of these provisions is discussed in more detail below.

Income Imputation/Presumption Policies

All state guidelines use the noncustodial parent's income to determine the amount of the support award, and most state guidelines also consider the custodial parent's income as well. Most states attribute income when a parent's income is unknown, when the parent is voluntarily unemployed or underemployed, and in other situations. In state guidelines that consider both parents' incomes, income attribution policies apply to both parents equally.

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[139] Knox & Bane, *supra* note 110.
[140] Lucia Nixon, "The Effect of Child Support Enforcement on Marital Dissolution" (Winter 1997) 35(2) *J. Human Resources* 159–181; see also Robert Plotnick et al., "The Impact of Child Support Enforcement Policy on Nonmarital Childbearing," Center for Studies in Demography and Ecology Working Paper (Univ. of Washington, Aug. 2005).
[141] Entmacher, *supra* note 105.
[142] *Ibid.*
[143] *Id.* at p. 11.

Income is typically deemed to be unknown when the parent does not provide income information as requested in the notification or complaint for support or fails to appear in court and is held in default, and the court or tribunal has no information on which to base the order. Unknown income is more common among noncustodial parents than custodial parents. The custodial parent is typically the party pursuing child support or required to cooperate with the child support agency because he or she is receiving public assistance. The rationale for attributing income when income is unknown is that the court or administrative unit setting support must use some method of income determination; otherwise, the parent would benefit from his or her failure to provide information or appear at the hearing. This is particularly salient for parents working in the underground economy, where income is not recorded or subject to payroll taxes. Because underground income does not show up on state-compiled earnings databases, a major source of income information is unavailable to child support agencies when establishing and enforcing child support orders. Nonetheless, as discussed earlier, the percentage of noncustodial parents who have income only from the underground economy is extremely small, with one study placing it at 1.3 percent.

One of the reasons some parents have low income is that they work in unstable or seasonal employment and have frequent bouts of unemployment. The rationale for attributing income when a parent is unemployed or underemployed is based on the assumption that parents can and should find full-time and/or consistent employment to support their children. This assumption is questionable, given the previously noted fact that the unemployment and underemployment rates in California are 12.5 and 20 percent, respectively, at the time this report was prepared.[144]

As discussed earlier, one problem with attributing income to a low-income obligor is that it can result in an order amount beyond what an obligor can reasonably pay because his or her actual income is below the attributed income. In part, this may explain some of the correlation between noncompliance and income attribution. A multistate study of low-income obligors and their payments commencing after order establishment found no payments in almost half (44 percent) of the cases in which income was attributed and in 11 percent of cases in which income was not attributed.[145] The same study found that income was attributed to 45 percent of the low-income obligors, the obligor was unemployed or underemployed in 37 percent of the attributed cases, and the obligor failed to provide income information or to appear at the case conference or court hearing in 46 percent of the attributed cases.

Policy and Experiences of California
The California guideline (Fam. Code, § 4058(b)) provides for income imputation:

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[144] Scott, *supra* note 102.
[145] Office of Inspector General, U.S. Dept. of Health and Human Services, *The Establishment of Child Support Orders for Low-Income Noncustodial Parents,* OEI-05-99-00390 (July 2000), p. 16.

> The Court may, in its discretion, consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interests of the children.[146]

Family Code section 17400(d)(2) (which falls outside the statewide uniform guideline) provides for the presumption of income in DCSS cases when the obligor's income is unknown or no income history is available. This statute provides that income is to be presumed to be the amount of minimum wage for 40 hours per week.

In federal fiscal year 2008, the California DCSS established almost 100,000 child support orders, and more than 6,000 (7 percent) were established through presumed-income assignment.[147] All orders based on presumed income were entered through default; that is, the noncustodial parent did not file an answer or appear at the hearing. DCSS does not track the number of orders with imputed income. Based on the case file data collected for the last California guideline review in 2005, 16 percent of DCSS orders involved either presumed or imputed income.

Seven percent of non-DCSS cases reviewed in 2005 were based on imputed income. No non-DCSS cases were based on presumed income because, according to statute, income can only be presumed in DCSS cases.

Income Attribution in Other State Guidelines
Child support guidelines in the 50 states and the District of Columbia were reviewed and compared to the California guideline as part of this study. The review was limited to state guidelines and did not include consideration of actual practices, other states' statutes, or child support agency policies that may determine income attribution policies. Case law, agency rules, and statutes outside of the guidelines may affect actual income attribution practices more than the income attribution provisions contained in a state's guidelines. For example, even though state guidelines do not always specify unknown income to be attributed as earnings that would result from full-time, minimum wage employment, it is the most common practice across states and jurisdictions.

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[146] This guideline review focuses on statutory language in California's Family Code and, more specifically, the Uniform Statewide Guideline (except, of course, throughout discussion on income "presumption" that falls outside the California Family Code language). It does not, as a general matter, focus on the universe of case law that affects application of the guideline. However, for purposes of explaining California's income imputation policy, it is noteworthy to mention that *In re Marriage of Regnery* (1989) 214 Cal.3d 1367 sets out the following three-pronged test to determine whether a court should consider a parent's earning capacity in lieu of his or her actual income: (1) ability to work, including age, occupation, skills, education, health, background, work experience, and qualifications; (2) willingness to work, demonstrated by good faith efforts, due diligence, and actual meaningful attempts to secure employment; and (3) opportunity to work, exemplified by an actual employer willing to hire. The *Regnery* holding additionally clarified that if either the ability or opportunity to work is absent, a parent's earning capacity may not be considered.
[147] Cal. Dept. of Child Support Services, *supra* note 130, table 3.7.

The term "attributed income" is used loosely in this discussion to mean any provision that allows an income amount other than the parent's actual income to be used to calculate the support award. State guidelines use the terms "attributed income," "imputed income," "presumed income," and "potential income." Not all states use more than one term and each term is defined differently from state to state. The delineation of "imputed" and "presumed" income is unique to California. No other state guidelines distinguish between income attribution because income is unknown and income attribution for other reasons. In fact, only 14 state guidelines specifically mention that income is to be attributed when income is unknown.

About half of the state guidelines (26 states) specify a floor for income attribution or an amount to be used when income is unknown. The most common amount is the state or federal minimum wage, but three states specify a higher amount. The Minnesota guideline specifies 150 percent of the federal minimum wage, the Tennessee guideline specifies state median wage, and Vermont specifies 150 percent of the average state wage.

A smaller number of state guidelines (19 states) specify the number of hours worked to be considered in income attribution. With the exceptions of Hawaii, Montana, and Wisconsin, most specify full-time or 40 hours per week. Hawaii specifies 30 hours per week or less, Montana specifies a work schedule that averages 25 hours per week for students, and Wisconsin specifies 35 hours per week.

Almost half of the state guidelines (22 states) provide for consideration of local employment opportunities or prevailing wage rates when attributing income. This allows for attribution at more realistic levels, particularly in communities with few job opportunities or recent job losses, which has become more common during the current economic recession. Most of these state guidelines, however, also provide for the consideration of the parent's employment history, education attainment, employment qualifications, or a combination of these factors in the determination of the amount of attributed income. In all, 30 state guidelines specify that one or more of these factors should be considered.

Other considerations frequently specified in the guidelines are whether unemployment or underemployment is voluntary (34 state guidelines) and whether the parent is mentally or physically incapacitated (24 state guidelines). Several state guidelines identify circumstances in which income should not be attributed. The most common of these limiting circumstances are the parent's mental or physical disability (24 state guidelines) or the parent's need to care for a young child or another person with special needs (23 state guidelines). Some state guidelines limit a child support obligation when the parent is trying to improve his or her qualifications by advancing his or her education (9 state guidelines) or is incarcerated (5 state guidelines). Four states limit the amount of a child support obligation where the unemployed noncustodial parent is making a reasonable effort to find employment. Only one state's guidelines (Indiana) recognize a distinction between voluntary and involuntary unemployment.[148]

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[148] It is worth noting, however, that extensive California case law provides guidance on distinguishing between voluntary and involuntary unemployment.

The California guideline does not specifically mention any of these considerations, a pattern that is replicated in only a few other states. Most state guidelines contain several considerations in their income attribution provision. The Alabama guideline contains an income attribution provision more representative of other state guidelines in length, breadth, and scope than that of California:

> If the court finds that either parent is voluntarily unemployed or underemployed, it shall estimate the income that parent would otherwise have and shall impute to that parent that income; the court shall calculate child support based on that parent's imputed income. In determining the amount of income to be imputed to a parent who is unemployed or underemployed, the court should determine the employment potential and probable earning level of that parent, based on that parent's recent work history, education, and occupational qualifications, and on the prevailing job opportunities and earning levels in the community. The court may take into account the presence of a young or physically or mentally disabled child necessitating the parent's need to stay in the home and therefore the inability to work.

(Ala. Rules Jud. Admin., rule 32(B)(5).)

Comparison of State Guidelines Regarding Unknown Income

Exhibit 4-1 compares each state's guideline amount under four different scenarios. These amounts were calculated for this report using each state's guideline and, when available, an automated calculator sponsored by the state's child support agency or court. More information about the sources and underlying assumptions of these calculations is provided in Appendix C.

- In Case A, the noncustodial parent's income is unknown, the custodial parent's income is zero, and there is one child. In this case, the income presumption policy of a state's guideline is the basis for calculating the noncustodial parent's income. If the state's guideline (or statute in California) does not specify the amount of income to be presumed, the state's minimum wage is used. If a state's guideline does not specify the hours worked in the provision, a 40-hour workweek is used.
- Case B is similar to Case A except for one difference. It assumes that the noncustodial parent works 40 hours per week at the current federal minimum wage of $7.25 per hour. In other words, there is no variation among states in the calculation of the noncustodial parent's income based on differences in state provisions for income presumption, state minimum wage, or both. Other assumptions of Case A and Case B are identical—that is, the custodial parent's income is zero and there is one child.
- Case C also assumes that the noncustodial parent works full-time at federal minimum wage. However, Case C considers the guideline amount for two children, rather than one child, as in Case B.
- Case D also assumes that the noncustodial parent works full-time at federal minimum wage. Case D considers the guideline amount for five children.

The purpose of Case A is to compare state guidelines when the noncustodial parent's income is unknown. In effect, it not only captures differences in state guidelines formulas but also state differences in income presumption policy and minimum wage levels among states that establish a minimum wage above the federal level. The purpose of Case B is to compare state guidelines using the same amount of income; specifically, income equivalent to full-time, federal minimum wage earnings, which is the most common amount presumed. Comparisons of the guideline amounts using Case A and Case B highlight state differences that result from a state guideline that presumes income at an amount other than full-time, federal minimum wage and those states that have a state minimum wage that is higher than the federal minimum wage. The purpose of comparing Cases C and D is to observe how state guidelines vary in their treatment of cases with more than one child. Based on California's last guideline review, 61 percent of child support orders cover one child, 30 percent cover two children, 7 percent cover three children, and 2 percent cover four or more children.

State Comparisons—Case A: In this scenario, the noncustodial parent's income varies among states in accordance with income presumption provisions set in state statute, the state's minimum wage, or both. California Family Code section 17400(d)(2) provides that income will be presumed at full-time, minimum wage earnings in California ($8 per hour). This results in a monthly gross income of $1,386 per month. The California guideline amount for Case A is $300 per month. This is the eighth highest amount among the 50 states and the District of Columbia. The states with the three highest guidelines amounts for this case (Minnesota, Tennessee, and Vermont) all presume income at amounts considerably higher than full-time, minimum wage earnings when income is unknown. The amounts in these states range from more than $400 to almost $800 per month. Oregon and Washington guidelines produce amounts that are higher than California's because these states also have state minimum wages that exceed the California minimum wage. States with the lowest guidelines amounts for this scenario include Alaska, District of Columbia, and Delaware. The guidelines amounts for these states are $50 per month or less because these state guidelines have low-income adjustments that consider the current federal poverty level or similar data. Low-income adjustments are discussed in the next section of this report.

State Comparisons—Case B: As evident in the state comparisons based on Case A, which compared state guidelines amounts when obligor income was presumed, some states have higher guideline amounts because they presume a higher amount of parental income when income is unknown. To control for this, Case B assumes that the obligor's income is $1,256 gross per month, which is equivalent to full-time earnings at the current federal minimum wage of $7.25 per hour, but the other assumptions remain the same (i.e., the obligee has no income and there is one child). The California guideline amount for Case B is $236 per month. California ranks 24th among states for this scenario, which is close to the national average. Although using the federal minimum wage is not a realistic scenario for California because its minimum wage is higher, it does demonstrate that part of the reason the California guideline ranks high for Case A is that the state's minimum wage exceeds the federal amount.

State Comparisons—Cases C and D: Cases C and D involve two and five children, respectively, rather than one child, as does Cases A and B. Otherwise, it makes the same assumptions as Case B: the obligor works full-time at the federal minimum wage and the obligee has no income. The purpose of this scenario is to demonstrate that the California formula for low-income obligors with two or more children may be too high relative to the formulas of other states. This is because of the way the low-income adjustment phases into the guidelines amounts based on measurements of child-rearing expenditures and the phase-out varies with the number of children. The total amount expended on children increases when there are more children. Low-income obligors with more children face higher orders when the guideline amounts are based on child-rearing costs than those with fewer children. Under Case C, which involves two children, the California guideline amount is $377 per month, which is 13th highest in the nation. California's ranking is even higher for Case D, which involves five children. Under this scenario, the California guideline is $589 per month, which is fifth highest in the nation. As previously noted, California ranked 24th among states when there was only one child at an identical income level.

Exhibit 4-1. Comparison of States' Guidelines' Amounts When Income Is Presumed at or Equivalent to Full-Time, Minimum Wage

	Case A: One Child		Case B: One Child		Case C Two Children		Case D Five Children	
	Obligor's Income Is Presumed		*Obligor's Income Is Equivalent to Full-Time, Minimum Wage Earnings*					
	Monthly Order	**Rank**	**Monthly Order**	**Rank**	**Monthly Order**	**Rank**	**Monthly Order**	**Rank**
Alabama	$272	19	$272	14	$333	24	$343	37
Alaska	50	49	50	50	50	50	50	50
Arizona	281	14	281	10	397	7	481	20
Arkansas	261	21	261	15	377	12	542	9
California	300	8	236	24	377	13	589	5
Colorado	217	39	217	36	292	33	467	21
Connecticut	312	6	312	2	464	3	607	4
Dist. of Columbia	50	50	55	49	55	49	55	49
Delaware	21	51	21	51	21	51	21	51
Florida	257	22	257	17	399	6	499	16
Georgia	197	44	197	44	283	34	404	29
Hawaii	280	15	280	11	500	1	1,030	1
Idaho	212	42	212	40	308	31	428	24
Illinois	277	18	219	34	307	32	494	17
Indiana	221	36	221	32	281	36	377	32
Iowa	220	37	220	33	255	39	308	40
Kansas	221	35	221	31	322	27	510	13
Kentucky	229	33	229	28	346	23	451	22
Louisiana	245	26	245	21	364	14	493	18
Maine	268	20	260	16	329	25	346	36
Maryland	233	30	233	25	360	19	482	19
Massachusetts	333	4	303	3	364	15	411	28
Michigan	210	43	210	41	222	43	259	42
Minnesota	436	3	173	47	173	47	173	47
Mississippi	176	47	176	46	251	40	326	39
Missouri	279	16	279	12	384	11	397	30
Montana	132	48	132	48	132	48	132	48
Nebraska	225	34	225	30	243	41	295	41
Nevada	235	29	226	29	314	29	414	27
New Hampshire	279	17	279	13	353	22	353	35
New Jersey	281	13	281	9	394	9	563	6
New Mexico	243	27	243	22	329	26	362	33
New York	192	45	192	45	283	35	396	31
North Carolina	232	31	232	26	236	42	243	43
North Dakota	282	12	282	8	356	21	510	14
Ohio	248	24	248	19	362	17	425	25
Oklahoma	249	23	249	18	363	16	515	11
Oregon	307	7	203	43	203	46	203	46
Pennsylvania	284	9	284	5	320	28	331	38
Rhode Island	216	40	216	37	218	44	225	44
South Carolina	284	10	284	6	402	5	519	10
South Dakota	216	41	216	38	279	37	357	34
Tennessee	616	2	339	1	479	2	683	2
Texas	219	38	219	35	274	38	439	23
Utah	238	28	238	23	388	10	553	8
Vermont	795	1	209	42	209	45	209	45
Virginia	232	32	232	27	360	20	502	15

Washington	327	5	285	4	442	4	680	3
West Virginia	248	25	248	20	361	18	511	12
Wisconsin	179	46	213	39	313	30	425	26
Wyoming	282	11	282	7	396	8	561	7
Average	**$257**		**$229**		**$310**		**$411**	

[a] Appendix C contains the amount of presumed income used by each state. The amount varies according to each state's guideline, the state minimum wage, or both.

Low-Income Adjustments: Thresholds and Formulas

The majority of states include some sort of adjustment for low-income obligors—that is, at low income levels, the guidelines reduce order levels to amounts that fall below the actual cost of raising children. The California guideline applies its low-income adjustment only to incomes that fall below $1,000 net per month. In contrast, most states do not have a set threshold for applying their low-income adjustment. Instead, most state guidelines gradually phase out the low-income adjustment to amounts that reflect child-rearing costs. In these states, the income at which the low-income adjustment phases out typically varies by the number of children because the costs of child rearing increase when there are more children. For example, North Carolina phases out its low-income adjustment at $1,300 gross per month for one child and $2,550 gross per month for six children.

California does not vary the low-income adjustment threshold for the number of children and has never updated this threshold since it was first adopted. The income threshold has remained at $1,000 net per month for over a decade in California. The only change occurred in 2003, when the California Legislature made the low-income adjustment presumptive. Prior to then, the low-income adjustment was applied at court discretion and so was not applied consistently across the state.

Because the adjustment is applied to incomes below $1,000, the California guideline does not protect obligors with incomes just above this threshold from being impoverished by their child support orders. This was illustrated in an earlier case scenario. It showed that application of the current California guideline would result in a $300 per month order for one child when an obligor works full-time at the state minimum wage ($1,386 gross per month). At this wage, the obligor's after-tax income is $1,200 per month, so paying $300 per month in child support leaves the obligor with $900 per month in spendable income. This is below the current federal poverty level for one person ($902.50) per month. As long as the threshold for applying the low-income adjustment remains at $1,000, the gap between obligor's spendable income and the poverty level will continue to grow because the federal poverty level is updated annually. Future increases in the state minimum wage will also widen the gap for those obligors working at minimum wage or in cases where the obligor's income is presumed.

The formula used to adjust for low incomes in California is unique. Unlike most low-income adjustments in state guidelines, the California low-income adjustment does not consider how much income the obligor needs to live above a subsistence level. The California low-income

adjustment is simply a percentage reduction to the regular guideline amount. Most state guidelines (30 states) rely on a "self-support reserve" as the underlying basis of their low-income adjustment. The self-support reserve is typically based on the federal poverty level for one person. It represents the amount of spendable income after payment of taxes and child support that the obligor needs in order to live at least at subsistence level. Since most states incorporate the adjustment into their child support look-up tables, its existence is not readily apparent. Some states (e.g., District of Columbia, New York, Vermont, West Virginia), however, incorporate the adjustment into their child support worksheet. This makes the adjustment transparent.

Exhibit 4-2 illustrates how a low-income adjustment based on the self-support reserve is incorporated into the New York guidelines. The New York guideline formula is 17 percent of the obligor's adjusted gross income for one child. Unlike California's guideline, the New York guideline does not effectively consider the obligee's income in the base calculation or the child's time with each parent. For an obligor with gross income of $1,386 per month ($1,286 per month after income adjustments permissible under the New York guideline), the preliminary child support order—that is, the amount prior to the low-income adjustment—would be $219 per month for one child in New York. The New York guideline provides for a self-support reserve equivalent to 135 percent of the federal poverty level for one person. Based on the most current poverty level (2009), this equates to a self-support reserve of $1,218 per month. The difference between the income used to determine support ($1,286 per month) and the self-support reserve is $168 per month. An obligor paying a child support order of this amount has sufficient income to meet his or her self-support reserve. Because this amount ($168 per month, as shown on line 6 of Exhibit 4-2) is less than the regular guideline calculation ($219, as shown on line 4 of Exhibit 4-2), the order is set at $168 per month for this case.

Exhibit 4-2. Illustration of New York's Self-Support Reserve Test	
1. Obligor's gross income	$1,386
2. Adjustments to gross income	106
3. Income available for support (line 1 minus line 2)	1,286
4. Preliminary child support order (line 3 multiplied by 17% for one child)	219
Self-Support Reserve Test	
5. Self-support (135% of the federal poverty level for one person)	1,218
6. Income available for support (line 3 minus line 5)	168
7. Child support order (the lesser of lines 4 and 6)	$ 168

The amount of the self-support reserve varies considerably among states. Most self-support reserve amounts are based on whatever the federal poverty level for one person was in the year when the state last updated its guideline. This means that states that have not updated their guidelines for several years have self-support reserves as low as about $450 per month, which approximates the federal poverty level for one person in 1989. Some state guidelines (i.e., District of Columbia, Minnesota, New York, Washington) avoid this problem by indexing their self-support reserve to the federal poverty level for one person, which is updated by April of each year. These states also inflate the federal poverty level by 20, 33, 35, and 50 percent when using it as a self-support reserve.

There are several reasons for using an index of poverty for the self-support reserve that exceeds the federal poverty level. The federal poverty level is often criticized for being an inadequate measure of poverty. Income eligibility thresholds for public assistance programs are often set above 100 percent (e.g., SNAP—formerly called Food Stamps—is set at 130 percent of the poverty level, and C-CHIP (California Child Health Insurance Program) eligibility is set at 300 percent of the poverty level). Following this logic, it would make sense to match the index for the self-support reserve for noncustodial parents to the index used for custodial parents applying for welfare. Still another reason for inflating the federal poverty level in a self-support reserve is to take taxes into account. Since some states guidelines rely on gross income while the poverty level is expressed as an after-tax income amount, the inflator essentially accounts for tax consequences.

The merits of the self-support reserve test as a low-income adjustment are that it considers the subsistence needs of the obligor; it is based on a logical, easily understood premise; it can be made transparent when it is put in the worksheet (as illustrated in Exhibit 4-2); and when indexed to the federal poverty level, it can be updated annually. The major limitation is that it typically produces a lower order amount than does a proportional adjustment, which is the next common method used by states, or an equalization of income, which is used by a few states to adjust for low income. Some advocates perceive any lowering of support as an unacceptable detriment to the child.

Minimum Orders

About 40 state guidelines impose minimum orders. California and 10 other state guidelines do not. Most state guidelines with low-income adjustments based on a self-support reserve also have minimum orders. Without a minimum order, it is possible for the self-support reserve test to result in a negative order amount, specifically for incomes below or just above the self-support reserve amount.

The most common minimum order amount is $50 per month. Some state guidelines set minimums as low as $10 per month (e.g., Maine), while other state guidelines rely on a minimum order of over $200 per month (e.g., South Dakota). Many states vary the minimum order with the number of children. A few states (e.g., Maryland) provide a range as the minimum order ($20 to $150 per month) for incomes below the federal poverty level or minimum wage. The merit of a range is that it allows for some variation based on the obligor's income or the circumstances of the case. It is particularly useful when it applies to a wide range of incomes below full-time, minimum wage earnings because it allows for some variations in cases where the obligor does not have the capacity or ability to work at least full-time at minimum wage. An obligor with $550 per month in disability benefits can be treated differently than an obligor with unemployment benefits of $800 per month. The limitations of establishing a range are that the order amounts are not predictable for obligors with incomes in that range, and it may result in inconsistent amounts in similarly situated cases.

The merit of imposing a minimum order is that it establishes the precedent that all parents at all income levels are financially responsible for their children. One limitation is that there are some situations where a zero order may be more appropriate. For example, a zero order may be more appropriate for an obligor who is institutionalized for several years and has no income-producing assets. Some states (e.g., Indiana) have devised guidelines that provide for minimum orders but also provide for a zero order when appropriate. Indiana's provision follows.

> When a parent has extremely low income the amount of child support recommended by use of the Guidelines should be carefully scrutinized. The court should consider the obligor's income and living expenses to determine the maximum amount of child support that can reasonably be ordered without denying the obligor the means for self-support at a minimum subsistence level. The court may consider $12.00 as a minimum child support order; however, there are situations where a $0.00 support order is appropriate. A numeric amount of child support shall be ordered.

(Ind. Child Support Rules and Guidelines 2.)

Indiana clarifies in its commentary that a minimal or a zero-dollar child support order may be appropriate in some situations.

> [T]he Guidelines do not establish a minimum support obligation. Instead the facts of each individual case must be examined and support set in such a manner that the obligor is not denied a means of self-support at a subsistence level. For example, (1) a parent who has a high parenting time credit, (2) a parent who suffers from mental illness, (3) a parent caring for a disabled child, (4) an incarcerated parent, (5) a parent or a family member with a significant/chronic health issue, or (6) a natural disaster are significant but not exclusive factors for the Court to consider in setting a child support order. The court should not automatically attribute minimum wage to parents who, for a variety of factors, are not capable of earning minimum wage.

(Ind. Child Support Rules and Guidelines 2.)

Chapter Summary

Low-income adjustments in state guidelines are completely justifiable and often appropriate. They are fair to the obligor because they consider his or her subsistence needs, result in orders that more realistically reflect an ability to pay, and preserve the incentive to work. According to the literature, orders that comprise an excessive proportion of obligor income result in lower compliance rates, higher arrears balances, and increases in underground employment. Arguably, low-income adjustments are also in the best interest of the child because setting realistic child support orders retains a noncustodial parent's incentive to work in the regular economy and

keeps the noncustodial parent involved with the child.[149] The literature amply documents that parent-child involvement and child support receipt are associated with many desirable child outcomes.

Thirty states have adopted a "self-support reserve" as their low-income adjustment to their guidelines. Based on the federal poverty level, it represents the amount of spendable income after payment of taxes and child support that the obligor needs in order to live at least at a subsistence level. Several states index their self-support reserve to the federal poverty level for one person, which is updated annually. They also inflate the federal poverty level by 20 to 50 percent to obtain a better measure of poverty, match the income eligibility thresholds for public assistance programs, and account for taxes.

The current California low-income adjustment is inadequate. Established more than 10 years ago, it is out of date, and, unlike most state guidelines, it does not consider the subsistence needs of the obligor. A comparison of order amounts for low-income obligors with one child when the obligor's income must be imputed or presumed ranks California eighth highest among the 50 states and District of Columbia. In a comparison using federal minimum wage rates, minimum wage earners in California fare worse than most of their counterparts in other states. These California minimum wage earners rank 13th highest in order levels with two children and 5th highest in order levels with five children. Indeed, the only scenario where minimum wage earners in California do about as well as their counterparts in other states is when they have a single child and their income is based on the federal minimum wage level.

California's income imputation and presumption policies only exacerbate the issue of establishing appropriate guideline amounts for low-income obligors. Although most states provide for income attribution in their child support guidelines, income attribution produces order amounts that exceed what an obligor can reasonably pay largely because the attributed amount is more than the obligor's actual income. Obligors with little available income information, work history, or evidence of employment qualifications are presumed to be able to obtain full-time employment and earn the minimum wage. While this presumption is questionable in the best of economic circumstances, there is absolutely no basis for it in a time when employment in California has dropped for 40 consecutive months, unemployment stands at 12.5 percent, and underemployment has reached 20 percent. The barriers to full-time employment are even worse for the high proportions of Hispanic and African-American noncustodial parents in the IV-D system, whose national unemployment rates are 12.6 and 16.5 percent, respectively.

It is relevant to note that California law uniquely provides for attribution of income both within the guideline and outside the guideline in DCSS cases. Indeed, the guideline review found that approximately 16 percent of child support orders in IV-D cases are based on either presumed or imputed income, as compared with 7 percent in non-DCSS cases. Generating orders that better

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[149] There are some obvious situations, such as cases involving domestic violence, that create exceptions.

reflect the true earning potential of low-income obligors in the child support system will not be achieved through adjustment of the state guideline alone. Rather, it will require coordination between the low-income adjustment in the formula, as well as provision for income presumption contained in the non-guideline statute. This recommendation and others pertaining to low-income families are contained in the recommendation chapter of this report.

CHAPTER 5

Medical Support Provisions

This chapter addresses state provisions for the establishment of medical support, specifically provisions that meet federal medical support requirements imposed in 2008 and currently in effect.[150] Medical support can require several different things: health insurance coverage for the child by one or both of the parents; a specification as to how the parents will handle and pay for the child's uninsured health-care expenses (including copays and deductibles); an amount to offset coverage costs when the children are enrolled in Medicaid or another public entity program; or a combination of these. Most states, including California, provide for the children's medical support within the child support order. Only a couple of states routinely provide separate orders for child support and medical support.[151]

Medical support is a current issue for two reasons. In response to recent health-care trends and in recognition of the child's health-care needs, in 2008 the federal government vastly expanded its medical support requirements applying to states.[152] These federal requirements involve the implementation of extremely complex policies, such that many states, including California, are still in the process of making conforming changes.[153] National health reform adopted into law in 2010 even further compounds this complexity. Some policy leaders believe health reform will eventually produce changes to federal medical support requirements, but it is still too early to know how.[154] Health reform did not directly address child medical support, so any changes necessary to make federal medical support congruent with health reform measures will take time to identify and develop. In the interim, states have made or are making minimum changes to comply with the 2008 federal requirements.

Most of the existing federal medical support requirements apply to the state IV-D caseload. Only a few requirements apply to state guidelines, which must be used by both IV-D and non-IV-D cases because the guidelines must be applied to all cases. Most states provide for medical support in two places: their child support guidelines and a non-guidelines section of their state statute. Typically, states provide for the medical support specific to the IV-D agency in the non-guidelines section of state statute. California applies medical support in both guidelines and non-guidelines sections of its statutes; however, the non-guidelines section also applies to non-IV-D cases. The California guideline contains medical support provisions at Family Code section 4062(a)(2), and another Family Code section, section 3751(a)(2), also provides for medical

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[150] 73 Fed.Reg. 42416–42442 (July 21, 2008), http://www.acf.hhs.gov/programs/cse/pol/AT/2008/at-08-08.htm.

[151] The consequence of two orders is important to child support enforcement. Enforcement remedies available to state IV-D agencies cannot always be used if there is a separate order for medical support.

[152] 73 Fed.Reg. 42416–42442.

[153] For the most part, the California guideline and other statutes already comply with these 2008 requirements; the only exception is the requirement for a quantitative threshold for defining the reasonable cost of the child's medical support. However, proposed Senate Bill 580 (Wright) proposes this threshold and definition.

[154] Vicki Turetsky, "Health Reform for Children Is on the Horizon" (Jan.2010) 32(1) *Child Support Report,* *www.acf.hhs.gov/programs/cse/pubs/2010/csr/csr1001.pdf.*

support. In all, there is little consistency among states regarding which provisions pertaining to the establishment of medical support are contained in a state's guidelines and which provisions are contained in non-guideline statute. This means that any discussion about state provisions affecting the ordering of medical support cannot be limited to a discussion of state guidelines.

This chapter discusses state provisions affecting the ordering of medical support. It focuses on the 2008 medical support requirements issued by the federal Office of Child Support Enforcement (OCSE) that are currently in effect. It begins with some background statistics on medical support. The likely impact of 2010 health reform is interjected when appropriate.

Background Statistics on Medical Support

As identified earlier, medical support orders can require one or both parents to provide health insurance coverage; specify how the parents will handle and pay for the child's uninsured health-care expenses; specify an amount to offset coverage costs when the child is enrolled in Medicaid or a similar program; or a combination of these.

Federal regulations require state IV-D agencies to pursue medical support. Most child support orders established or enforced by state IV-D agencies contain an order for medical support. Nationally there are more than 12 million open IV-D cases with support orders, more than 1 million in California alone.[155] Nationally, medical support is ordered in 77 percent of these cases.[156] California has established medical support orders at an even higher rate. Medical support is ordered in 90 percent of California IV-D cases with established support orders.[157]

Most medical support orders nationally and in California include, at a minimum, an order for a parent to provide health insurance, typically through the parent's employer. Orders requiring that at least one parent provide health insurance for the child comprise 88 percent of IV-D medical support orders nationally and almost 100 percent of IV-D medical support orders in California.[158] A typical approach taken by most states consists of ordering each parent to carry health insurance for the child if the parent has insurance available at a reasonable cost even though the parent may not have access to insurance at the time the order is entered. This approach allows the IV-D agency to take measures to enroll the child in a health plan quickly if one becomes available—for example, when a parent obtains new employment with health benefits.

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[155] Office of Child Support Enforcement, U.S. Dept. of Health and Human Services, *OCS FY2008 Preliminary Report to Congress* (2009), *www.acf.hhs.gov/programs/cse/pubs/2009/reports/preliminary_report_fy2008/#highlights*; Cal. Dept. of Child Support Services, "Comparative Data for Managing Program Performance," *Federal Fiscal Year 2008* (Apr. 2009), *www.childsup.ca.gov/Portals/0/resources/docs/reports/ 2008/Federal%20Fiscal%20Year%202008%20Performance%20Data.pdf* (as of Mar. 20, 2010).

[156] Office of Child Support Enforcement, *supra* note 155, tables 11 & 12.

[157] *Id.,* tables 3.9.1 & 3.9.2.

[158] Calculated from Off. of Child Support Enforcement, *supra* note 155, tables 11 & 12, and Cal. Dept. of Child Support Services, *supra* note 155, tables 3.9.1 & table 3.9.2 (see note 157—Office of Child Support Enforcement).

Nonetheless, as discussed in more detail later, ordering parents to provide health insurance does not always mean it is provided, particularly in IV-D cases, where most parents are low income and few have access to employer-provided health-care benefits.

The case file review, which was presented in an earlier Chapter 3, found that 18 percent of California child support orders include an order for uninsured health-care costs. The comparative national statistic is not tracked. The number of medical support orders that offset coverage costs when the children are enrolled in Medicaid or a similar program is also unknown nationally. Like most states, California does not routinely order medical support in Medicaid cases that is to be collected and distributed to the Medicaid agency to offset the cost of the child's coverage.

National data tracking of IV-D cases in 2008 finds that health insurance is provided as ordered in just 30 percent of IV-D cases with orders and that medical support is provided as ordered among 28 percent of the same set of cases.[159] The same data source provides state-specific data. It shows that health insurance is provided as ordered in 39 percent of California IV-D cases with orders and that medical support is provided as ordered in 21 percent of California IV-D cases with orders. One barrier to ordering medical support as well as medical support compliance in IV-D cases is that parents are generally low income and lack access to affordable, private health-care coverage.

In general, various studies find that children, particularly children in the IV-D caseload, do not typically have health-care coverage provided through employer-sponsored insurance available to the obligor.[160] The only study known to track medical support in both IV-D and non-IV-D cases dates back to a 1999 survey of child support–eligible children living with their mothers.[161] Unlike the IV-D statistics on medical support provided earlier that considered the percentage of *ordered* cases with coverage, this 1999 study included children with and without medical support orders. The study found that half had health-care coverage through employer-sponsored insurance, but the custodial mother was typically the source of the child's health-care coverage rather than the noncustodial father.[162] Specifically, the custodial mother or stepfather was the source of employer-sponsored insurance for 32 percent of the children; the noncustodial father

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[159] Office of Child Support Enforcement, *supra note 155 tables 11 and 12.*

[160] Laudan Aron, *Health Care Coverage Among Child Support-Eligible Children* (U.S. Dept. of Health & Human Services, Dec. 2002); Vermont Office of Child Support, *Section 1115 Demonstration Grant Project UNIMED A Unified Approach to Medical Support Through Intra-Agency Collaboration/Data Exchange: Final Report* (2008); Policy Studies Inc., *Increasing Healthcare Coverage for Children: A New Coordinated Approach* (Colorado Div. of Child Support Enforcement, Oct. 2004).

[161] This study explicitly considered custodial mothers, so using the term "mothers" here is appropriate. As discussed earlier, "obligor" and "obligee" are generally used throughout this report because they are consistent with the California guideline. However, when referencing specific sources that use "mother" and "father" or "custodial" and "noncustodial" parent, those terms are adapted. In addition, "custodial" and "noncustodial" are used when discussing other programs (e.g., Medicaid) where the income of the custodial parent household is considered to determine eligibility. This nuance is important because, under the California guideline, it is possible for the custodial parent to be the obligor if the custodial parent has considerably more income than the noncustodial parent and physical responsibility for the child is equally shared or almost equally shared.

[162] Aron, *supra* note 160, table 4.

was the source of employer-sponsored insurance for 13 percent of the children; and the source of the employer-sponsored insurance was unknown or from another source for 5 percent of the children. Among children without employer-sponsored insurance, the same 1999 study found that 33 percent of child support–eligible children were enrolled in Medicaid or CHIP, 14 percent of the children were uninsured, and 3 percent had other insurance.

Many children in the IV-D caseload qualify for Medicaid or CHIP, and at least 60 percent used Medicaid or CHIP in 2005.[163] Medical support is known to significantly reduce Medicaid costs through third-party liabilities and cash medical support orders. Third-party reimbursements are realized because children can be simultaneously enrolled in Medicaid, based on the income of the custodial parent, and the noncustodial parent's employer-sponsored insurance plan pursuant to a medical support order. Although many custodial parents prefer Medicaid coverage over private or dual coverage because it has more comprehensive benefits, lacks copays or deductibles, and is generally more convenient,[164] health-care expenses incurred under Medicaid can be recovered through the noncustodial parent's health insurance plan for children with dual coverage. This is also known as third-party liabilities and, historically, is the major thrust of child medical support efforts by IV-D agencies. Texas, the only state besides California to have a IV-D caseload exceeding 1 million, recovered $36 million in 2006 from insurance carriers, medical providers, and pharmaceutical companies.[165] All state IV-D and Medicaid agencies must collaborate to collect third-party liabilities from their overlapping caseloads. The current amount collected nationally or in California is unknown, but several other states report substantial savings. For example, Wisconsin, a state with about 350,000 IV-D cases, estimates that it saves $500,000 per month in third-party liabilities for IV-D children who have dual coverage through Wisconsin's Medicaid program and the noncustodial parent's private insurance.[166]

Another way that medical support reduces Medicaid costs is through orders for cash medical support that is collected and disbursed to the Medicaid agency to offset the child's health-care coverage. These types of orders will generally work only when Medicaid is provided through managed-care organizations that assess a monthly amount for the child's health-care coverage. They do not work well where Medicaid is delivered by fee-for-service because the Medicaid agency cannot receive cash medical support that exceeds the medical fees incurred for a particular child.[167] California delivers its child Medicaid services through both managed care and fee-for-service.[168] Fee-for-service is more likely in rural areas, where the market for managed care is smaller than in urban settings.

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[163] Jennifer Burnszynski, "Medical Child Support and Health Reform: New Opportunities, New Questions," (Jan. 2010) 32(1) *Child Support Report, www.acf.hhs.gov/programs/cse/pubs/2010/csr/csr1001.pdf.*
[164] Center for Policy Research, *Medical Child Support: Strategies Implemented by States* (Texas Office of Assistant Attorney General Div. of Child Support, June 2009).
[165] Texas Office of Atty. Gen., "Texas Medical Support Issues and Initiatives—2007" (2007).
[166] Steven T. Cook & Thomas Kaplan, "Improving Medical Support Order Enforcement in Wisconsin" (Univ. of Wisconsin Inst. for Research on Poverty, Sept. 2008).
[167] 73 Fed.Reg. at 42422–42423.
[168] Kaiser Family Foundation, "California: Medicaid Managed Care," *http://statehealthfacts.org*.

Most states, including California, do not solely provide their child Medicaid program through managed care. For this and several other reasons, only a few states assess and collect this type of cash medical support. Texas is one state that does. In 2006, Texas collected $15 million in cash medical support that was disbursed directly to the Medicaid agency to offset the child's health-care coverage.[169] Texas typically tacks cash medical support on top of base child support.

A federal study of eight states also suggests that Medicaid savings of both federal and state dollars from this type of medical support could be large.[170] Conducted in 2005 to explore ways to deal with shrinking Medicaid budgets, the federal study estimated that noncustodial parents could contribute $99 million annually to the Medicaid costs incurred by IV-D children in the study states.

Some state IV-D demonstration projects have found that medical support efforts yield only modest impacts for Medicaid third-party reimbursements and children's health care coverage. For example, a Washington demonstration project that tested the efficacy of a centralized medical support unit found that third-party medical support was being provided as ordered in 16 percent of the reviewed cases.[171] Where medical support was not provided, the majority of noncustodial parents were unemployed, incarcerated, or employed in a setting that either lacked employer-sponsored health benefits or were unavailable at a reasonable cost.[172] This result is consistent with the discussion in Chapter 4 regarding the poverty level of a large proportion of individuals in IV-D cases. Poor and low-income individuals are unlikely to have employer-sponsored health benefits. Still another reason that child medical support does not have a relatively large impact on Medicaid cases is that not all Medicaid children are in the IV-D caseload. For example, a Vermont demonstration project found private health insurance for 17 percent of Medicaid children in its IV-D caseload. Because not all Vermont children enrolled in Medicaid are in the IV-D caseload, this amounted to the IV-D agency finding health insurance for 10 percent of its statewide Medicaid population.[173]

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[169] Texas Office of Atty. Gen., *supra* note 165.

[170] Office of Inspector General, U.S. Dept. of Health & Human Services, *Eight-State Review of the Ability of Noncustodial Parents to Contribute Toward the Medical Costs of Title IV-D Children That Were Paid Under the Medicaid Program,* Report No. A-01-03-02501 (U.S. Dept. of Health & Human Services).

[171] Lewin Group, *Evaluation of Strategies to Improve Medical Support Enforcement in Washington State* (ECONorthwest, Feb.2006).

[172] The Sacramento County IV-D program implemented an innovative solution in 1990 to overcome the lack of employer-sponsored insurance available to obligors. (At the time, federal regulations required that the IV-D agency petition the obligor for the children's health insurance if the obligor had employer-sponsored insurance, and they did not require the consideration of insurance available to both parents.) Sacramento teamed with a third-party administrator and two insurance carriers to make child-only health insurance available in selected IV-D cases. The premiums (around the year 2003) were about $100 per month per child. This insurance is typically ordered in Medicaid cases and in cases where the premium can be withheld from the obligor's paycheck. Center for Policy Research, *supra* note 164.

[173] Vermont Office of Child Support, *supra* note 160.

Federal Requirements

State guidelines have been required to provide for "the children's health care needs through health insurance coverage or other means"[174] since 1987, when guidelines were first required by the federal government. In 2008, OCSE issued new rules that imposed the following medical support requirements.[175] States vary as to whether they meet these requirements in their guidelines or the non-guidelines provision of their statutes.

- In addition to the previous requirements, state guidelines must address how parents will provide for the child's health-care needs.
- States must allow for either or both parents to be ordered to provide medical support.
- States must specify a quantitative threshold for determining whether medical support is reasonable in cost. The reasonable-cost test must be applied only to the child's premium.
- States must provide a definition of "accessible" insurance.
- States must allow for "cash medical support."

Each of these provisions is separately discussed in more detail. As part of the consideration of both parents' access to insurance, researchers for this project considered how state guidelines adjust for a parent's expense of the child's insurance premium. The discussion on reasonable cost also considers the costs of a child's health-care.

Providing for the Child's Health-Care Needs

The new medical support rules expanded federal requirements. State guidelines must:

> Address how the parents will provide for the child(ren)'s health care needs through health insurance coverage and/or through cash medical support in accordance with § 303.31 of this chapter.

(45 C.F.R. § 302.56(3).)

This provision essentially requires that a state guideline complement the federal requirement (45 C.F.R. § 303.31) of state IV-D agencies—that is, agencies must petition for medical support in IV-D cases, and a state must allow for the provision of medical support in the child support order. This includes the jurisdiction to order a parent to enroll the child in private health insurance or cash medical support, or both.

For most states, the guideline provides for the ordering of medical support. California and 11 other states provide the jurisdiction to order medical support outside the state guidelines. The California provision requiring health insurance coverage for the children, as shown below, is outside the child support guideline but it is still contained in the Family Code:

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[174] Child Support Enforcement Amendments of 1984 (Pub. L. No. 98-378, 98 Stat. 1305).
[175] 73 Fed.Reg. 42416–42442.

> In any case in which an amount is set for current support, the court shall require that health insurance coverage for a supported child shall be maintained by either or both parents if that insurance is available at no cost or at reasonable cost to the parent.

(Fam. Code, § 3751(a)(2).)

However, the California provision for uninsured medical expenses is provided in the child support guideline.

> The court shall order the following as additional child support: . . . (2) The reasonable uninsured health care costs for the children as provided in Section 4063.

(*Id.*, § 4062(a)(2).)

In contrast, some states provide for the child's health insurance and uninsured medical expenses in the same place. The Nebraska guideline exemplifies this:

> The child support order shall address how the parents will provide for the child(ren)'s health care needs through health insurance as well as the nonreimbursed reasonable and necessary child(ren)'s health care costs that are not included in [the child support schedule].

(Neb. Rev. Court Rules, ch. 4, art. 2, § 4-215.)

Ordering Either or Both Parents to Provide Medical Support

The new federal rules eliminated the longstanding presumption in federal child support policy that the noncustodial parent had employer-sponsored insurance available to cover his or her children and that it would be the most appropriate source of health-care coverage for his or her children. The new rules recognize that there is no rational basis for assuming that the noncustodial parent is more likely than the custodial parent to have employer-sponsored insurance; that the number of employers providing health benefits is declining; that premium costs are escalating and families are assuming larger deductibles, copays, and other out-of-pocket health-care expenses; that more health plans limit the geographical area that they serve; and that more employers impose a waiting period before enrolling an employee and his or her family.

The new federal rules require that the insurance available to both parents be considered for medical support. Most states, including California, at Family Code section 3751(a)(2), already provide for orders for insurance that apply to either or both parents. What is different is how states must now evaluate which insurance is most appropriate for the child in IV-D cases. The new federal rules require an evaluation of which insurance is the most appropriate for the child in IV-D cases based on state-determined definitions of reasonable cost and accessible insurance.[176]

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[176] 45 C.F.R. § 303.31(2).

Some states (e.g., New Jersey, Oklahoma) have developed analytical tools, like elaborate hierarchies and decision-making matrices, to determine which parent has accessible insurance that is reasonable in cost, whether both parents have accessible insurance that is reasonable in cost, and so forth.[177] It is not entirely clear whether these analytical tools are used in both IV-D and non-IV-D cases, but the federal regulations require an evaluation only in IV-D cases. Specifically, the IV-D agency is federally required to petition for medical support. The federal requirement prioritizes private insurance available to either parent over Medicaid as long as it is reasonable in cost and accessible to the child.

The reality is, however, that the opportunities to use these tools are limited because IV-D cases where both parents have access to private insurance are rare. Instead, as identified earlier, the more common situations in IV-D cases are that the children are enrolled in Medicaid and that few IV-D parents have employer-sponsored insurance.[178] Various detailed studies from other states also indicate that few noncustodial parents in IV-D cases have access to employer-sponsored insurance. A Colorado study that aimed to increase medical support coverage in new orders found that the noncustodial parent had access to employer-sponsored insurance in only 1 out of 10 IV-D establishment cases.[179] A Vermont study tracking all IV-D medical support results over 10 months found the incidence of noncustodial parents with accessible insurance somewhat more frequent but still uncommon, with only 25 percent having access to employer-sponsored insurance.[180]

Even though the current federal medical support rules require it, consideration of both parents' access to employer-sponsored insurance may be an outdated standard in light of 2010 health reform measures that, once effective, will mandate individual health-care coverage and impose tax penalties for failure to provide coverage.[181] Although this is not explicitly stated by OCSE as a reason, OCSE is carefully reviewing federal medical support rules in light of health reform and publically announcing that medical support rules may change in the future. Specifically, to be consistent with the new health-care mandate, which becomes effective in 2013 and extends to the dependents of an individual, it might make more sense if the requirement was for the parent who must pay penalties for noncoverage to be the parent who must provide coverage, rather than the existing requirement to consider both parents' access to insurance. The custodial parent would play both of these roles in many cases because the children are typically their dependents; however, identifying the parent responsible for the child's health-care coverage becomes less clear when there is joint physical custody or where the noncustodial parent claims the children as dependents for tax purposes. Since the health reform law does not define "dependent," it is currently unclear which parent will be liable for penalties. Obviously, there are many factors that must be considered before new federal medical support policies are drafted, and any discussion about their details is speculative at this point.

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[177] Urban Inst., *Package of Material for Medical Support and Health Reform First Colloquium* (Jan. 2010).

[178] Burnszynski, *supra* note 163; U.S. Dept. of Health & Human Services, *supra* note 155.

[179] Policy Studies, Inc., *Increasing Healthcare Coverage for Children: A New Coordinated Approach* (Colorado Div. of Child Support Enforcement, Oct. 2004).

[180] Vermont Office of Child Support, *supra* note 160.

[181] Henry J. Kaiser Family Foundation, "Summary of New Health Reform Law," *Focus on Health Reform* (2010).

Consideration of Insurance Premiums in Guidelines

Most state guidelines consider the costs of the child's premium in the calculation of the support award, and the adjustment is similar regardless of whether the obligee or obligor carries the child's premium. The California guideline and nine states subtract the premium from the income of the parent providing insurance. California goes a step further and subtracts any premium paid by a parent from income, regardless of whether it is for the children for whom support is being determined, other children, a new spouse, or him- or herself.

The more common approach in state guidelines is to prorate the child's share of the premium costs between the parents. Thirty-five states use this approach. Iowa and Nebraska recently switched from subtracting the premium from the parent's income to the prorated approach. Iowa's rationale was twofold.[182] Iowa believed that subtracting the premium from the parent's income did not provide a "sufficient adjustment for skyrocketing health insurance premiums."[183] Further, Iowa did not believe that the subtraction method provides an easy or fair method of allocating the cost of the insurance premium regardless of which parent carries insurance for the child. Nebraska similarly abandoned the subtraction approach, reasoning that it did not allocate the premium costs equitably between the parents; it placed most of the additional costs of increased premiums on the parent carrying the insurance; and it provided an economic disincentive for a parent to carry the child's insurance.[184]

The prorated approach essentially gives an obligor a credit if he or she is carrying the child's insurance, and it assesses an additional amount of support if the obligee is carrying the child's insurance. If the parent providing the child's insurance is the obligor, the obligee's share of the premium is subtracted from the preinsurance award to determine the final award amount. If the parent providing the child's insurance is the obligee, the obligor's share of the premium is added to the preinsurance award to determine the final award amount.

Exhibits 5-1 and 5-2 illustrate and compare monthly child support orders using:

- The existing approach, which is to subtract the premium from the income of the parent carrying the insurance before calculating support; and
- The alternative approach, which prorates the premium between the parents and either adds or subtracts this amount to the preinsurance award depending on which parent is carrying the health insurance.

Both exhibits assume a case where the parents have equal incomes (i.e., $3,000 gross per month), there is one child, there is no cost of insurance for either parent, neither parent has another dependent, and the child spends 20 percent of his or her time with the obligor. Both exhibits

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[182] Iowa Supreme Ct. Com. to Review Child Support Guidelines, *Final Report* (May 2008).
[183] *Id.* at p. 11.
[184] Nebraska Child Support Advisory Com., *Report of the 2006 Nebraska Child Support Advisory Commission: Recommendations* (Nebraska Supreme Ct. & Exec. Bd., Jan. 2007), p. 8.
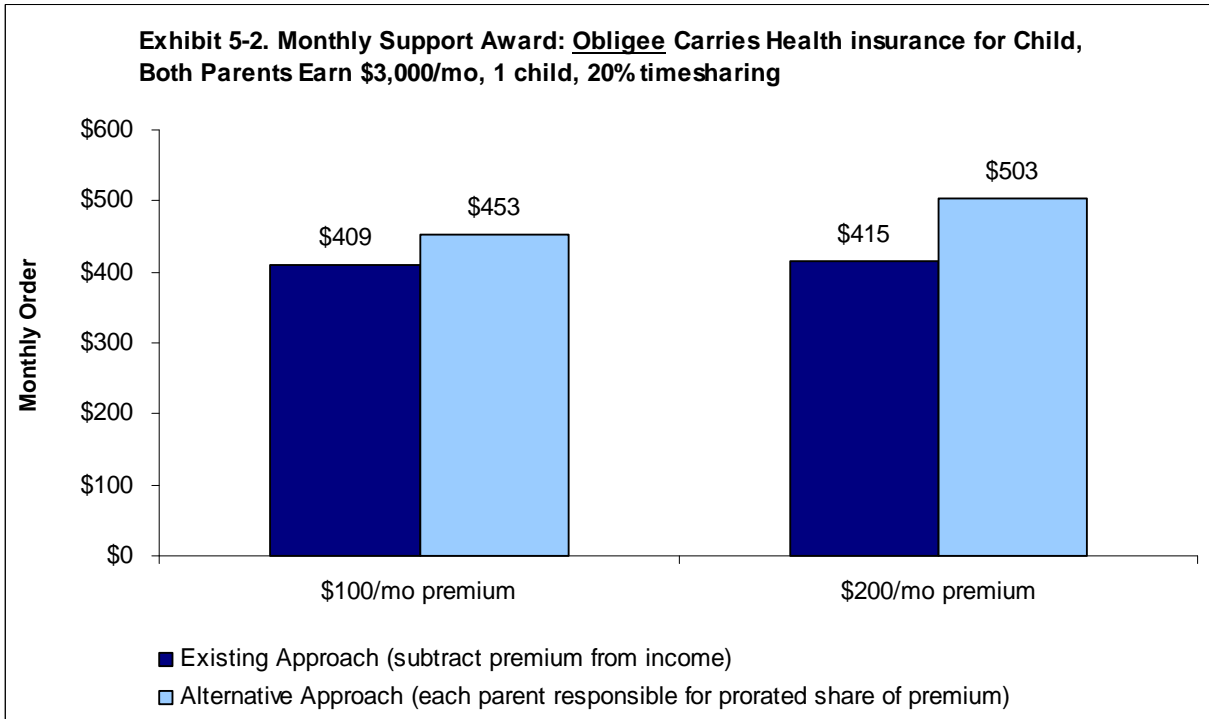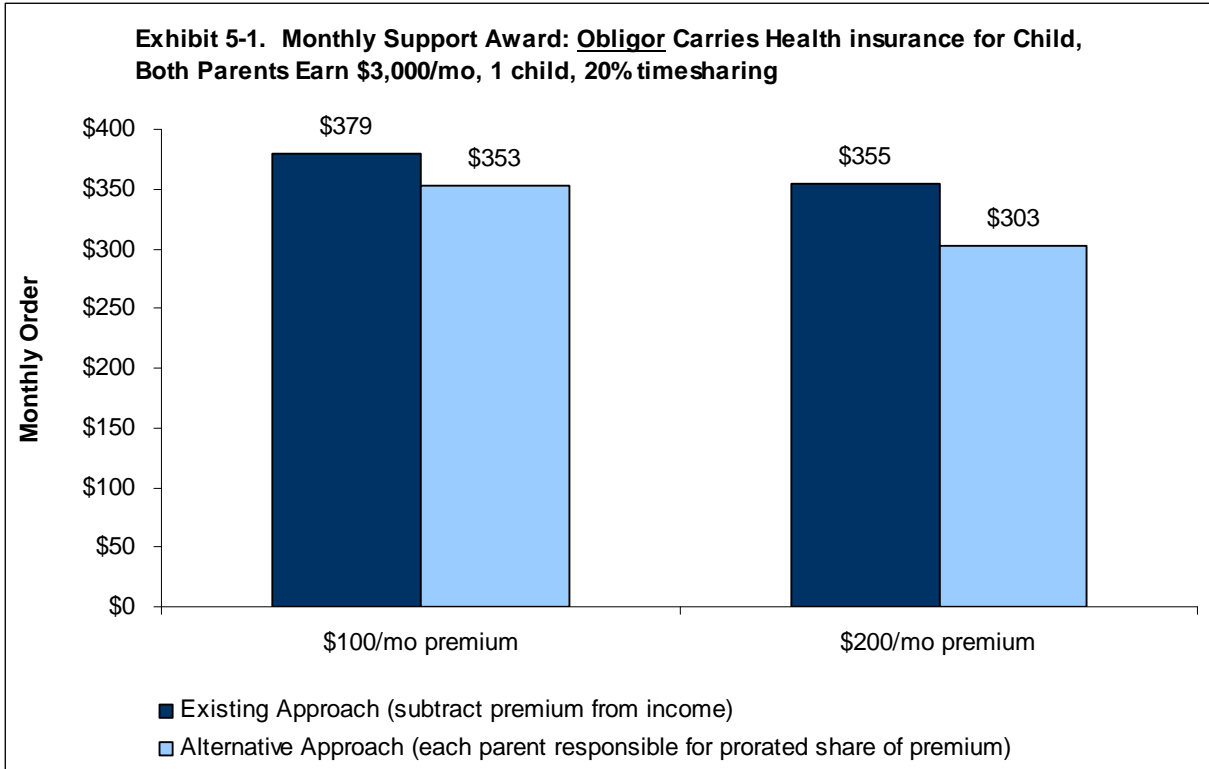
depict two scenarios: one where the child's insurance premium is $100 per month, and the other where the child's insurance premium is $200 per month.[185]

Exhibit 5-1 shows that when the obligor carries the child's insurance, California's current approach (i.e., subtraction method) produces a higher obligation than the alternative approach of prorating the health insurance. For example, when the obligor pays $100 per month for the child's insurance, the order amount is $379 per month under the subtraction method and $353 per month under the prorated method.

Exhibit 5-1 also shows that when the insurance premium increases, the reduction of the support award (that considers the premium costs) is more under the prorated approach than the subtraction approach. Under the subtraction method, when the insurance premium increases from $100 to $200 per month, the support award decreases by $24 per month (from $379 to $355). In effect, under the subtraction method, the obligor incurs $76 per month more in additional expenses for the child (i.e., $100 increase in premium minus $24 reduction in the support award). The obligee effectively bears $24 of the $100 increase in the premium costs even though the obligee's and obligor's income is equal. The prorated approach produces a $50 decrease in the order amount (from $353 per month to $303 per month). The reduction represents the obligee's pro rata share of the $100 premium amount.

In Exhibit 5-2, the obligee carries the child's health insurance premium. When the premium is $100 per month, under the subtraction approach, the support award is $409 per month; under the prorated approach, the support award is $453 per month. When the insurance premium increases by $100, the support award increases by $6 ($409 to $415) under the subtraction approach, and by $50 ($452 to $503) under the prorated approach.

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[185] All state guidelines that use the prorated approach consider only the child's share of the insurance premium. Further, federal regulation requires that reasonable cost of insurance calculations consider the child's share of the insurance premium only. In practice, however, the child's share is not always obvious because family premiums typically cover the parent as well as the parent's other dependents. Some of the dependents (e.g., a new spouse and children with the new spouse) may not be the same dependents for whom support is being determined. Most state guidelines provide for a determination of the child's share of the premium by defining it as the difference between the premium amounts for family and individual coverage or by prorating the premium by the number of individuals covered by the policy.

Exhibit 5-1. Monthly Support Award: <u>Obligor</u> Carries Health insurance for Child, Both Parents Earn $3,000/mo, 1 child, 20% timesharing

Monthly Order

$379 — $100/mo premium (Existing Approach)
$353 — $100/mo premium (Alternative Approach)
$355 — $200/mo premium (Existing Approach)
$303 — $200/mo premium (Alternative Approach)

■ Existing Approach (subtract premium from income)
□ Alternative Approach (each parent responsible for prorated share of premium)

Exhibit 5-2. Monthly Support Award: <u>Obligee</u> Carries Health insurance for Child, Both Parents Earn $3,000/mo, 1 child, 20% timesharing

Monthly Order

$409 — $100/mo premium (Existing Approach)
$453 — $100/mo premium (Alternative Approach)
$415 — $200/mo premium (Existing Approach)
$503 — $200/mo premium (Alternative Approach)

■ Existing Approach (subtract premium from income)
□ Alternative Approach (each parent responsible for prorated share of premium)

Reasonable Cost of Insurance

Prior to the new federal rules, the cost of providing health insurance was considered reasonable if insurance was employer provided. The federal regulation suggests that medical support is

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reasonable in cost if it does not exceed 5 percent of gross income but also provides that states can adopt another reasonable alternative in their guidelines.

> Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations or court rule having the force of law or State child support guidelines…. In applying the five percent or alternative State standard for the cost of private health insurance, the cost is the cost of adding the child(ren) to the existing coverage or the difference between self-only and family coverage.

(45 C.F.R. § 303.31(a)(3).)

A reasonable-cost threshold was first conceived by the National Medical Child Support Working Group, an independent body established under the Child Support Performance and Incentive Act of 1998 to develop recommendations for effective enforcement of medical support orders.[186] The working group recommended that the child's premium be considered reasonable in cost if it did not exceed 5 percent of the gross income of the parent ordered to provide medical support. The working group had reservations about setting the threshold too high because that could reduce the amount of cash child support and the combination of medical support and cash child support could exceed income withholding limits. The source of the 5 percent threshold is a federal SCHIP limitation. States cannot require more than 5 percent of a family's gross income to meet the SCHIP premium. The working group believed that it was appropriate to subject the custodial parent's household and the noncustodial parent to the same standard. Aware of the need for state flexibility owing to state variations in health-care costs and coverage options for children, however, the new rule allows states to set an alternative threshold.

Researchers preparing this study reviewed medical support provisions in all 50 states and the District of Columbia and found that, as of March 2010, 25 states has adopted a reasonable-cost threshold. Most of these states (19 states) use a 5 percent threshold. The review also found two states that have a less than 5 percent threshold (New Hampshire and Oregon use4 percent) and several states whose thresholds are higher than 5 percent: South Dakota (8 percent of net income); Texas (9 percent of gross income); Alabama (10 percent of gross income); and Colorado (less than 20 percent of gross income). Oregon recently reduced its threshold from 7 to 5 percent because the lower percentage simplified the calculation and was consistent with Oregon's cash medical support policy.[187]

A few state guidelines (e.g., Ohio and Wisconsin) do not consider that any insurance available to a parent whose income is near poverty is reasonable in cost. For example, Wisconsin will not

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[186] U.S. Dept. of Health & Human Services and U. S. Dept. of Labor, *21 Million Children's Health: Our Shared Responsibility, the Medical Child Support Working Group's Report* (June 2000).
[187] Oregon Dept. of J., *Oregon Child Support Guidelines Changes: Detailed Summary* (Aug. 2009).

consider any health insurance available to a parent whose income is below 150 percent of the federal poverty guidelines. Rhode Island varies its reasonable-cost threshold for obligors with multiple orders.

Many of the states that rely on a higher threshold recognize that a lower threshold increases the likelihood that private coverage will not be ordered even when available from a parent's employer. This can be to the detriment of the child, particularly if the child is not eligible for Medicaid or SCHIP. The unintended consequence is that the child has no health-care coverage. Research from state-specific studies corroborates the problem with lower thresholds. Colorado found that a 5 percent threshold would make private insurance reasonable in cost in 12 percent of examined cases.[188] Georgia found that a 5 percent threshold would make private insurance reasonable in cost in 30 percent of examined cases.[189] Georgia also found that private insurance is reasonable in cost in more cases when a higher threshold is used. For example, Georgia found that a 15 percent threshold would make private insurance reasonable in cost in 70 percent of examined cases.

A handful of states place their reasonable-cost threshold in a non-guideline section of their statutes. These states also place the jurisdiction to seek medical support in the same non-guideline section of their statutes.

Health-Care Insurance and Costs in California
The trend in California, like most of the nation, is fewer employers providing health insurance and higher premium costs. Since the economic recession began, an additional 28 percent of Californians (a population of nearly 2 million) lost their health insurance.[190] Much of this decline is due to job loss or because employers stopped offering coverage. The trend was evident even before the economic recession began. For example, one study notes that the percentage of California children covered by employer-provided insurance dropped from 55 percent in 2001 to 50 percent in 2005.[191] About half of all California children, not just those in the California IV-D caseload or those eligible for child support, had health-care coverage through employer-based health insurance in 2008.[192]

Increases in health insurance premiums—both for employer-sponsored health care plans[193] and individually purchased private insurance[194]—have led to declines in individual and family

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[188] Policy Studies Inc., *supra* note 179.
[189] Georgia Dept. of Human Resources, Office of Child Support Enforcement, *Medical Insurance Collaboration Final Report* (Aug.2004).
[190] Gwendolyn Driscoll, "Nearly 2 Million Californians Lost Health Insurance During Recession," *California Health Interview Survey Newsroom* (Mar. 16, 2010), *www.chis.ucla.edu/release.asp?id=50.*
[191] E. Richard Brown et al., "The State of Health Insurance in California: Findings from the 2005 California Health Interview Survey" (UCLA Center for Health Policy Research, Aug. 2009), *www.healthpolicy.ucla.edu/pubs/files/SHIC_RT_82009.pdf.*
[192] Retrieved from *www.statehealthfacts.org.*
[193] Driscoll, *supra* note 190.

coverage. Employers are transferring increased costs to employees by switching to plans with higher deductibles and out-of-pocket costs.[195] The increasing premiums for individual policyholders in California (often as high as 39 percent) was enough for the U.S. Congress to call for an investigation of the insurance companies in 2010.[196]

The proportion of income that California families and single parents typically pay to provide insurance coverage for their children is not a readily available statistic. Instead, it is calculated in this report from two data sources. One source is average California premium costs.[197] The other data source is U.S. Census data on income.[198] In 2008, the employee's share of the premium averaged $62 per month for individual coverage and $283 per month for family coverage. From this it can be deduced that the children's share of the premium was $221 per month ($2,657 per year), which is the difference between the average cost of family and single coverage. This represents 4 percent of 2008 California median family income, 7 percent of California median male earnings, and 10 percent of median female earnings. These percentages approximate what families and single parents typically pay to provide health insurance for their children.

The health reform of 2010 will radically change the costs of health-care coverage for children and eventually render these current statistics obsolete. "Premium credits" under health reform will limit the maximum percentage of income a family will have to spend on its insurance premium. Based on a sliding scale, the percentages range from 2 percent for families with incomes below 133 percent of the federal poverty level to 9.5 percent for families with incomes above 300 percent of the federal poverty level but below 400 percent of the poverty level.[199] One issue relating to this medical support requirement is that the sliding scale considers the premium for the family, not the premium amount attributable to the children for whom support is being determined. The new federal rules limit the amount of premium when conducting a reasonable-cost test to the child's share. Another caveat is that the implementation of premium subsidies is scheduled for 2014. How premium amounts will change in the interim is unknown.

Accessible Insurance

The new federal rules require the IV-D agency to petition to "include private health insurance that is accessible to the child(ren), as defined by the State."[200] Some states (23 states) define

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[194] Victoria Colliver, "Health insurance hikes stun small businesses: California: Some face premium increases exceeding 75 percent," *San Francisco Chronicle* (Feb. 26, 2010), *http://articles.sfgate.com/2010-02-26/news/17957301_1_rate-hikes-health-rates-rate-increases*.

[195] *Ibid*.

[196] Duke Helfand, "Congress opens probe into Anthem Blue Cross rate increases: Two House panels announce they are investigating the hikes, which take effect March 1. Lawmakers ask the company's CEO to explain the reasons for the increases," *Los Angeles Times* (Feb. 10, 2010), *http://articles.latimes.com/2010/feb/10/business/la-fi-anthem10-2010feb10*.

[197] Retrieved from *www.statehealthfacts.org*.

[198] In 2008, California median family income was $70,029, median earnings of a California male worker were $35,931, and median earnings of a California female worker were $25,898. U.S. Census Bur. American Factfinder, "B19113 Median Family Income in the Past 12 Months (in 2008 Inflation-Adjusted Dollars," 2008 American Community Survey (as of Apr. 4, 2010), *http://factfinder.census.gov*.

[199] Henry J. Kaiser Family Foundation, *supra* note 181.

[200] 45 C.F.R. § 303.31(b)(1).

accessible insurance in their guidelines; however, the states are not required to include a definition their guidelines.

The requirement's purpose is to ensure that whatever the insurance ordered it can be used by the child. Health plans may not be accessible because they serve a limited geographical region or because new employees must go through a waiting period before they are eligible to receive the employer's health benefits. Federal rules provide that the state define "accessible" as appropriate for that particular state. The National Medical Child Support Working Group recommends that the consideration of accessibility determine whether the child lives within the health plan's service area and whether primary care is available within the lesser of 30 minutes or 30 miles of the child's residence. In addition, the working group recommends assessing whether coverage can reasonably be expected to remain effective for at least one year, based on the parent's employment history.

California's definition of "accessible" insurance is included in the guideline:

> When ruling on a motion made pursuant to this section, in order to ensure that the health care needs of the child under this section are met, the court shall consider all relevant facts, including, but not limited to, the following:
> (1) The geographic access and reasonable availability of necessary health care for the child which complies with the terms of the health care insurance coverage paid for by either parent pursuant to a court order.
> (2) The necessity of emergency medical treatment that may have precluded the use of the health care insurance, or the preferred health care provider required under the insurance, provided by either parent pursuant to a court order.
> (3) The special medical needs of the child.
> (4) The reasonable inability of a parent to pay the full amount of reimbursement within a 30-day period and the resulting necessity for a court-ordered payment schedule.

(Fam. Code, § 4063(g).)

States vary in how they define "accessible." Eleven states define "accessible" by the number of miles or minutes from the child's primary residence; nine states consider "accessible" to include the geographic scope or county of the child's primary residence; and four states provide that health-care coverage is accessible if the covered children can obtain services with reasonable effort by the parents or within a reasonable traveling distance and time from the child's primary residence. The latter is particularly salient to states like California, where there is considerable geographical diversity, including both urban and rural areas, as well as variation in access to health-care facilities and health-care providers by geographical region.

Cash Medical Support

State IV-D agencies are federally mandated to petition for cash medical support when accessible private health insurance is not available to parents at a reasonable cost. This mandate necessitates a clear definition of "cash medical" support. Federal regulations broadly define cash medical support as:

> [A]n amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance.

(45 C.F.R. § 303.31(a)(1).)

OCSE intentionally set a broad federal definition of cash medical support to allow states flexibility and discretion in defining cash medical support in alignment with their individual state initiatives or policies.[201] States can provide for cash medical support in three ways: (1) an amount to be paid toward the cost of health insurance provided by a government or public entity such as Medicaid or SCHIP; (2) an amount to be paid toward the cost of health insurance provided by another parent; or (3) an amount to be paid for other medical costs not covered by insurance.

As will be discussed in more detail later, the California guideline provides for two of the three definitions of cash medical support. The first definition (e.g., an amount to be paid to the Medicaid agency or a similar program) is not feasible when health-care services are delivered through fee-for-service. As discussed earlier, a Medicaid agency cannot receive more than what it expends on a child. When Medicaid is provided through managed care, a state Medicaid agency typically pays a monthly premium rate for each Medicaid enrollee to the managed-care provider. As a consequence, the Medicaid agency can accept cash medical support receipts up to that premium amount. However, when child Medicaid services are reimbursed through fee-for-service, the costs of health care for the child are not consistent from month to month. This does not lend itself well to reimbursements through cash medical support.

California, like many states, relies on a mixture of managed care and fee-for-service to deliver its child Medicaid services (called Medi-Cal in California). This is common in many states. In California, almost all Medi-Cal services in rural areas are delivered through fee-for-service.[202] Taken together, these factors make the development of a consistent statewide policy for using cash medical support to offset Medi-Cal coverage impossible. Numerous other states face a similar limitation. In fact, although at least 16 states provide for this type of cash medical support, a minority of states actually collect cash medical support and distribute it to the

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[201] 73 Fed.Reg. 42416–42442.
[202] Miles Hochstein et al., *Medi-Cal Reimbursement: Its Significance for California Children* (Univ. of Cal., Los Angeles, Cal. Policy Research Center, May 2000), *www.healthychild.ucla.edu/.../MediCal%20reimbursementbrief0500.pdf*.

Medicaid agency (e.g., Ohio, Oregon, Rhode Island, and Texas). Besides the fee-for-service issue, other barriers are the practicality of collecting this type of cash medical support when many low-income obligors are stretched just to comply with the base child support order, the automated system enhancements needed to track this type of cash medical support, and the need to develop interagency rules and procedures between Medicaid and the IV-D agency.[203]

In addition to Medi-Cal, California offers many other low-income insurance options for children. These include Healthy Families (California's SCHIP program) and Healthy Kids (which operates in some counties).[204] Because these programs are public entities, cash medical support can be ordered to offset the coverage costs from any of them. Most of these programs assess a nominal premium to the custodial parent, so the cost of that premium to the custodial parent would be considered in the guideline calculation. (As discussed earlier, California subtracts the premium cost from the income of the parent providing coverage.) The policy dilemma is whether additional cash medical support should be assessed to cover the public entity's share of the premium. For example, additional medical support could be ordered and paid to Healthy Families. No state, however, collects and distributes cash medical support directly to its SCHIP program for many of the same reasons that states do not routinely collect and distribute cash medical support to their state Medicaid programs.

The other two definitions of cash medical support (i.e., amount to be paid toward the cost of health insurance provided by another parent and the amount to be paid for uninsured medical costs) are already provided for in the California guideline. Specifically, if the obligee provides the child's insurance, the final child support order is adjusted through the subtraction of the premium amount. This meets the option for cash medical support to offset the other parent's cost of coverage.

Uninsured Health-Care Expenses
In addition, the California guideline addresses reasonable uninsured health-care expenses (Fam. Code, §§ 4062(2), 4063). Most state guidelines also provide for uninsured health-care expenses. A key difference between California and other states is that these expenses are divided in half between the parents in California, while most states prorate the expenses between the parents. The California guideline, however, does allow either parent to request an alternative apportionment similar to a pro rata share (Fam. Code, § 4060(b)). The prorated approach is more consistent with a conventional income shares guideline and state guidelines that prorate the child's insurance premium between the parents. As discussed in Chapter 2, California does not rely on the conventional income shares approach. The conventional income shares approach determines the noncustodial parent's base level of support by taking the noncustodial parent's pro rata share of average expenditures in an intact family with a similar family size and combined parental income.

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[203] Center for Policy Research, *supra.* note 164.
[204] Cal. Healthcare Foundation, *California Health Care Almanac*, *Children's Health Coverage Facts and Figures* (Nov. 2009).

Another key difference between the California guideline and state guidelines that rely on the conventional income shares guideline is that an income shares schedule typically includes a nominal amount of base support to cover routine and ordinary uninsured medical expenses such as copays, over-the-counter medicines, and bandages. This counts as the federal definition of "cash medical support."[205] Most income shares include $250 per child per year for routine medical expenses. This approximates average out-of-pocket medical expenses for children.[206] It is unclear whether the *K*-factor under the California guideline includes any routine and ordinary uninsured medical expenses, but it is fairly certain that the California guideline does not include the $250 average because this amount was calculated for a time period several years after the existing California guideline formula was developed. Nonetheless, because of cost-sharing subsidies under 2010 health reform, this will no longer be the average in the future.

Chapter Summary

The 2008 federal rules necessitate changes to state provisions for medical support, but the more recent 2010 health reform regulations make the future of medical support uncertain. OCSE has just begun to assess whether its current federal mandates on medical support are congruent with health reform. Depending on the outcomes of this assessment, federal medical support requirements imposed on states may change. For now, the current federal medical support rules apply. These require that state guidelines address how children's health-care needs will be addressed, that states provide that either or both parents can be ordered to pay medical support, that states specify a quantitative threshold for determining whether medical support is reasonable in cost, that states define "accessible" insurance, and that states provide for "cash medical support." With the exception of the quantitative threshold for determining reasonable cost, California complies with these current federal medical support rules.[207]

California's approach to provisions that affect what is ordered as medical support differs from those of most states. Most states provide most of their medical support provisions within their state guidelines, while California provides some of its key medical support provisions in another part of statute. Like most states, however, California provides that either or both parents can be ordered to carry health insurance for the children.

California also differs from other states in its treatment of the child's insurance premium in the guideline calculation. California subtracts the premium from the income of the parent carrying insurance. Most state guidelines prorate the child's insurance premium between the parents and add the obligor's share to the base support award if the obligee carries the insurance, or they subtract the obligee's share from the base support award if the obligor carries the insurance. Iowa and Nebraska have recently switched from the subtraction approach to the prorated approach

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[205] 73 Fed.Reg. 42,419.
[206] Center for Policy Research, *supra* note 164.
[207] Proposed Senate Bill 580 would correct that. See *supra* note 153.

because they believed the subtraction approach was an insufficient adjustment, particularly when premium amounts are rising.

California currently does not provide a quantitative threshold for determining "reasonable cost" of insurance. The new federal regulation requires the use of a threshold based on a percentage of income. Most of the 19 states that have adopted a threshold rely on the 5 percent threshold suggested in federal regulation (e.g., the child's share of the health insurance premium is reasonable in cost if it does not exceed 5 percent of the gross income of the parent carrying the insurance).[208] However, the federal regulation is clear that the precise amount of the threshold is at state discretion because the federal government recognizes state variations in health-care delivery systems and health-care costs. The rationale for the 5 percent threshold is that it is consistent with the federal maximum out-of-pocket costs that can be charged to custodial parents whose children are enrolled in SCHIP. The rationale for a lower threshold is affordability, particularly among parents with poverty or near-poverty incomes. The rationale for a higher threshold is that premiums can absorb more than 5 percent of a parent's income; with a higher threshold, the parent is more likely to be ordered to carry private insurance, which is better than no coverage for the children at all.

States must also define "accessible insurance" because, under the 2008 federal medical requirements, state IV-D agencies must also petition for insurance coverage that is accessible to the child. (The federal regulation leaves the definition of "accessible" to state discretion.) California and 22 other states provide a definition. Most of the definitions, including California's, consider geographic access; however, some of these geographic-based definitions specify that health services must be 30 miles, 30 minutes, or another quantitative threshold from the child's residence. The California definition is not this specific.

Finally, new federal regulations require state IV-D agencies to petition for cash medical support when private insurance (that is accessible to the children and reasonable in cost) is not available at the time the order is entered. The federal regulation defines three types of cash medical support. One type concerns cases where the obligee carries the child's insurance and essentially requires some sort of dollar adjustment to the final support award for the premium costs, such as subtracting the premium from the income of the parent or prorating the premium between the parents in the guideline calculation. The second type concerns the provision of the child's uninsured health-care expenses. The California guideline provides that these are to be divided equally between the parents but can be prorated between the parents if requested. Most state guidelines prorate uninsured health-care expenses and include a nominal amount for uninsured medical expenses (i.e., typically $250 per child per year) in the base support amount to capture typical and routine uninsured medical expenses (e.g., over-the-counter medicines and copays). It is not clear whether the *K*-factor in the California guideline includes anything for typical and routine uninsured medical expenses. The third type of cash medical support refers to a dollar amount ordered and distributed to the Medicaid agency (or similar public entity) to offset

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[208] Some states that rely on the 5 percent threshold relate it to the parent's net income rather than to the parent's gross income.

coverage costs for Medicaid children (or children whose health-care coverage is provided by a similar public entity). California and most states do not order this type of cash medical support because Medicaid rules effectively preclude it when Medicaid is delivered through fee-for-service and for other reasons. Medicaid for about half of California's children's is delivered through fee-for-service.

CHAPTER 6
Input From Stakeholders

California law requires that its child support guideline review process include a consultation with a broad cross-section of groups involved in child support issues. This consultation is important to solicit input on what problems people who are using the guideline have, what issues they see in its application, and what recommendations they have for changing the guideline that would make it easier to use, more equitable in its outcomes, and yield support orders that are in the best interest of children.

To conduct this consultation, researchers from the Center for Policy Research (CPR) conducted focus groups in both Northern and Southern California. This chapter describes how CPR identified and recruited stakeholders for these focus groups, how CPR conducted the focus groups, and the findings from the focus groups. Chapter 4 of this report presents information about other focus groups that reviewed the case file data and helped to interpret it.

Identifying and Recruiting Stakeholders

Identifying Stakeholders

In its first step to recruit advocates for the focus groups, CPR conducted Internet research using search terms to locate California advocacy groups. Search inquiries included combinations of the following terms: "California," "advocates," "noncustodial," "custodial," "children," "families," "rights," "child support," "mothers," "fathers," "parents," "low-income," and "divorced." CPR selected from the list generated by these search terms the advocates whose missions aligned with the objectives of the guideline review. For example, CPR selected the advocate groups whose missions were to assist custodial or noncustodial parents; represent women's, mothers', men's, or fathers' rights in child support issues; and/or represent the economic interests of low-income children or families.

The Department of Child Support Services (DCSS) also provided CPR with a list of its advocate contacts. The list generated from the search inquiries, together with the DCSS contact list, met the requirement under Family Code section 4054(d) that the guideline review include consultation with a "broad cross-section of groups involved in child support issues," including, but not limited to, the following:

(1) Custodial and noncustodial parents;
(2) Representatives of established women's rights and fathers' rights groups;
(3) Representatives of established organizations that advocate for the economic well- being of children;
(4) Members of the judiciary, district attorney's offices, the Attorney General's office, and the Department of Child Support Services;
(5) Certified family law specialists;

(6) Academicians specializing in family law;

(7) Persons representing low-income parents; and

(8) Persons representing recipient of assistance under the CalWORKs program seeking child support services.

(Fam. Code, § 4054(d).)

A few individuals also contacted CPR directly because they knew CPR was awarded the contract to review the California child support guideline. CPR added these contacts to the advocates list as well.

The final list, which included individuals representing advocacy groups generated from CPR's online search, contacts provided to CPR by DCSS, and individuals who contacted CPR directly, totaled 48 individuals. Few advocates were identified only as advocates for custodial parents or noncustodial parents. Rather, most claimed in their mission statements to represent children or families.

CPR conducted focus groups in Northern California (San Francisco) and Southern California (Burbank) to make attendance more convenient for the advocates. CPR therefore divided the advocate list by characterizing the advocate groups as operating in Northern or Southern California. The divided lists included individuals from the following advocate groups:

From Northern California:

Association for Children for Enforcement of Support (ACES) *(DCSS referral)*
Bay Area Fathers and Affiliates
California Alliance for Families and Children
Capitol Resource Institute
The Center for Families and Fathers
Children Now
Coalition of Welfare Rights Organization, Inc. *(DCSS referral)*
Divorced Father's Network
Fatherhood Collaborative of San Mateo County
Legal Services of Northern California *(DCSS referral)*
Mothers & More, Silicon Valley Chapter
The Novato Mothers Club
Options for Fathers *(DCSS referral)*
Partnership for Responsible Parenting *(DCSS referral)*
Rubicon Programs, Inc. *(DCSS referral)*
Western Center on Law & Poverty, Bay Area
Western Center on Law & Poverty, Sacramento

From Southern California:

Alliance for Children Concerned About Move-Aways
Association for Children for Enforcement of Support (ACES) *(DCSS referral)*
California Men's Center
California Women's Law Center
CaliforniaKids Healthcare Foundation
Children's Advocacy Institute
Children's Bureau
Children's Rights Council (CRC of Orange County/Long Beach)
Children's Rights Council (CRC of San Diego)
Children's Rights Initiative for Sharing Parents Equally
Children's Partnership
Coalition of Parent Support (chapter of American Coalition for Fathers and Children) *(DCSS referral)*
Coalition of Parent Support *(DCSS referral)*
Fathers and Families
Harriett Buhai Center for Family Law *(DCSS referral)*
The Mommies Network
Mothers & More, Pasadena Chapter
Mothers & More, West Valley Chapter
Mothers & More, Conejo Valley Chapter
My Child Says Daddy *(DCSS referral)*
National Coalition for Men
National Coalition for Men, Los Angeles Chapter
Single Parents United 'N' Kids *(DCSS referral)*
United Fathers of America
Western Center on Law & Poverty, Los Angeles

Recruiting Stakeholders

CPR used similar techniques to recruit advocates from the northern and southern regions of California for the first round of focus groups. Specifically, CPR sent all 48 individuals an e-mail invitation as well as a fax invitation to those advocates with an available fax number. Advocates from Southern California responded quickly, so no follow-up contact was necessary. The Northern California advocates, however, did not respond as quickly, so CPR made two follow-up telephone calls to these advocates to encourage their participation. If the individuals did not answer the follow-up telephone calls, the CPR representative left them a detailed voicemail about the focus group. Finally, CPR sent an e-mail to the advocates closer to the date of the focus group.

The individuals who declined attendance did so either because they were unable to attend or because their groups did not work in areas of child support relevant to the guideline review. Although more individuals confirmed their attendance, individuals from the following advocate groups actually attended the first focus groups:

Northern: San Francisco Focus Group

    Bay Area Father and Affiliates
    Fathers and Families
    California Alliance for Families and Children (two individuals)
    Divorced Father's Network
    Legal Services of Northern California
    Partnership for Responsible Parenting (two individuals)

Southern: Burbank Focus Group

    Alliance for Children Concerned About Move-Aways
    California Men's Center
    Coalition of Parent Support
    National Coalition for Men
    My Child Says Daddy (three individuals)
    Fathers and Families
    Harriet Buhai Center for Family Law

Three independent advocates also attended the Burbank Focus Group.

For the second round of focus groups, CPR used the same list of 48 individuals. CPR e-mailed all 48 individuals to invite them to the case file review focus group in San Francisco. CPR then made a follow-up telephone call to these individuals and left voicemails for those who did not answer. CPR sent out a second e-mail, further explaining the purpose of the case file review focus group. Finally, CPR followed up via telephone with those who expressed interest in attending the case file review focus group but who had not yet responded.

Similar to the first focus group, individuals who declined to attend did so because they were unable to attend or because their groups did not work in areas of child support relevant to the guideline review. A few individuals in the second focus group were enthusiastic about participating, but financial constraints kept them from commuting to San Francisco. CPR accommodated these individuals by arranging for their participation via teleconference.

The individuals who attended the San Francisco case file review were some of the same individuals who attended the previous focus groups. There were, however, some new participants. Individuals representing the following advocate groups attended the San Francisco case file review:

California Alliance for Families and Children (attended San Francisco discussion)
California Men's Center (attended Burbank discussion) – *via teleconference*
Coalition of California Welfare Rights Organization, Inc. (new attendee)
Coalition of Parent Support (attended Burbank discussion) – *via teleconference*
Fatherhood Collaborative (new attendee)
Legal Services of Northern California (attended San Francisco discussion)
Partnership for Responsible Parenting (2 individuals, both attended San Francisco discussion)
Novato Mothers Club (new attendee)

One independent advocate also attended the case file review.

Conducting the Focus Groups

CPR used a semi-structured format to conduct the focus groups. For the first two focus groups in San Francisco (March 16, 2010) and Burbank (March 29, 2010) CPR used the following format:

- CPR welcomed participants and participants made introductions.
- CPR asked participants to identify the factors that the current California child support guideline takes into consideration when it calculates the child support order. The intent of this task was to focus the participants on guideline issues that would be discussed in more detail later.
- CPR asked participants to comment on how well parents and potential guideline users understand how child support is calculated.
- CPR solicited advice on whether the factors currently considered in the guideline are appropriate, whether some should not be considered, and whether other factors should be considered.
- CPR asked participants for their advice on whether the current factors produce a fair amount for the parent obligated to pay support and for the parent receiving support.
- CPR asked participants if the California guideline as a whole is appropriate and fair.

CPR allowed time for participants to provide comments on any other issues they had with the guideline and to close with any final thoughts. CPR focus group facilitators attempted to ensure that all participants were provided an opportunity to comment.

A court reporter was present at the first two focus groups in San Francisco and Burbank to record the proceedings. Participants were advised that specific comments would not be attributed to named individuals or organizations in the written report.

Participant Survey
Participants in the focus groups were asked to complete a short survey when they arrived at the focus group site. The first question was a series of statements that asked respondents to rank their level of agreement or disagreement with how well the guideline was meeting the principles of

the uniform guideline set forth by statute (Fam. Code, § 4053). Eleven participants provided responses. The survey is reproduced below. The number of actual responses for each question has been added in the shaded area. The responses to question 2, which requests suggestions for improving the appropriateness, fairness, and comprehensiveness of the guideline, were minimal but are incorporated in the discussion of major themes that follows.

1. Below are several statements about the California Statewide Uniform Guideline. Please tell us how much you agree or disagree with each statement.

	Strongly Agree	Agree	Un-decided	Disagree	Strongly Disagree
a. The guideline assumes parent's first and principal obligation is to support his or her minor children according to the parent's circumstances and station in life.	5(2)	4(3)		2(5)	1(1)
b. The guideline assumes both parents are mutually responsible for the support of their children.	5(3)	4(4)		2(3)	1(1)
c. The guideline takes into account each parent's actual income and level of responsibility for the children.	5(2)	4(3)		2(1)	1(5)
d. The guideline reflects that each parent should pay for the support of the children according to his or her ability.	5(1)	4(5)	3(2)	2(1)	1(2)
e. The guideline seeks to place the interests of children as the state's top priority.	5(2)	4(4)		2(1)	1(4)
f. The guideline reflects that children should share in the standard of living of both parents.	5(1)	4(3)	3(1)	2(2)	1(4)
g. When both parents have high levels of responsibility for the children, the guideline minimizes significant disparities in the children's living standard in the two homes.	5(1)	4(2)	3(3)	2(3)	1(2)
h. The guideline considers that the financial needs of the children should be met through private financial resources as much as possible.	5(3)	4(1)	3(4)	2(1)	1(2)
i. The guideline presumes that a parent having primary physical responsibility for the children contributes a significant portion of available resources for support of the children.	5(2)	4(6)	3(2)	2(1)	
j. The guideline seeks to encourage fair and efficient settlements of conflicts between parents and seeks to minimize the need for litigation.	5(1)		3(3)	2(2)	1(5)
k. The guideline identifies the special circumstances in which child support orders should fall below the child support amount mandated by the guideline formula.	5(1)	4(1)	3(3)	2(5)	1(1)
l. The guideline limits the number of special circumstances in which support orders differ from the child support amount mandated by the guideline formula.	5	4(4)	3(4)	2(2)	1(1)
m. The guideline provides sufficient support reflecting the state's high standard of living and high costs of raising children compared to other states.	5(2)	4(1)	3(3)	2(3)	1(2)

2. Please provide suggestions for improving the appropriateness, fairness and comprehensiveness of the Guideline._____

_____

_____

_____

Major Themes

Given the backgrounds of the participants, it is not surprising that they were well informed about child support issues in general and the guideline in particular. It is also not surprising that many participants had very strong feelings about the guideline, often informed by years of experience in working with clients involved in the child support system or their own personal cases. They were able to offer constructive advice and important anecdotal evidence for this guideline review.

Four major themes emerged from the focus groups in San Francisco and Burbank:

- **Comprehension.** Participants believe that parents do not understand the child support calculation because they are unfamiliar with the multiple factors used to calculate support in the California guidelines.
- **Interrelationship.** Participants contend that child support guideline issues are interrelated with other family law issues, such as custody and parenting time, and those issues must be addressed as well.
- **Fairness.** Participants generally do not believe that the current child support guideline produces a fair result for a variety of reasons.
- **Application.** Participants believe that the child support guideline is applied incorrectly in too many cases.

Similar issues were identified in both focus groups, and the opinions and advice given on these issues were generally, but not always, consistent between the groups. Below is a detailed discussion of each of these major themes.

Comprehension

Participants generally believed that parents do not understand the child support calculation because they are unfamiliar with the multiple factors used to calculate support in the California guidelines. They believed that when parents fail to understand what has gone into the guideline calculation, it sometimes creates distrust of and resentment against the system. Multiple participants identified the need for parents to receive education regarding the factors taken into account in calculating child support and the factors that are excluded and that parents might commonly think would be relevant.

General Comprehension

With some exceptions, participants believed that parents lack knowledge about what goes into the guideline calculation. Some of the comments included:

> They see a judge typing numbers into it. They have no idea how it's played out.

> I think people get confused when they go into child support offices, local CSAs, and one worker will give them one estimated figure; three weeks later, they go in and give a court date and they have another estimated figure.

> Nobody seems to know the full scope of what's taken into consideration.

> Usually low-income people that I talk with have a very almost nonexistent understanding of not just the formula but the entire system. They're scared to death.

Complexity

Many participants believed that the calculations were too complex and should be made more transparent. Participants' views on this particular issue did vary, however. Participants in San Francisco unanimously believed the calculations were too complex, but some Burbank participants contended otherwise. One participant in San Francisco stated:

> {It] is far too complicated, far, far too complicated.

Some participants noted that the lack of understanding means that parents believe the other parent may be duping them:

> [People] don't have buy-in to those numbers.

> If you could get some transparency, then families can begin to heal.

The participants in Burbank who disagreed believed that the calculations were understandable. They found that the automated calculator helped. One participant stated:

> I hear everybody say it's complicated, but I think it's very simple.

Even though the majority of participants believed the guidelines were too complex, when pressed to specify factors that should be eliminated, there was little agreement.

Need for Education

Participants suggested that more efforts should be made to educate parents about what goes into the guideline calculation. Some participants suggested having a brochure at the court for parents to review that outlines the formula and/or education available at the court (the PACT class in Los Angeles County was suggested as a model). Other suggestions were to "put something on the Web that would be straightforward" or post the formula outside child support courtrooms.

> They need to be educated . . . . They feel they are getting ripped off, but when we educate them and teach them on the child support, how it's calculated, then they have a better feeling.

> I think how you make them take a parenting class, they should take a child support class too.

Some participants also commented that parents sometimes do not know that in-kind support, such as buying shoes for a child, does not count as child support. That causes conflict between the parents.

Interrelationship

Participants viewed child support guideline issues as interrelated with other family law issues, such as custody and parenting time. Many participants believed these issues create parental conflict, which affects child well-being. Therefore, many contended that these issues must be addressed before or simultaneously with consideration of guideline issues. When participants discussed these types of issues, they generally believed that not all of the underlying principles of the guideline were being achieved or should be pursued. For example, they did not believe that current child support policies are always in the best interest of the child, which is one principle underlying the guideline.

Custody

Many participants discussed the need to address custody issues as a paramount concern. Some participants stressed changing the terms used by child support to make the process friendlier (i.e., don't use "custodial" and "noncustodial parent," "visitation," or "absent parent"; instead use "shared parenting" and "coparenting"). Others wanted to start with a presumed 50/50 share of custody. Several participants commented that by moving closer to 50/50 percent shared parenting, the guideline would encourage participation of both parents in the lives of the children and also increase payment of child support:

> Until custodial ratios are balance[d] out and equal parenting time is address[ed] . . . a lot of this is going to be moot. . . .

> [O]nce we move toward more equitable distribution and custody a lot of these issues will just go away and the guideline will work. . . .

> [B]ut if the guidelines don't encourage a ruling that allows the child to have the most time with both caring and loving responsible parents, it fails, period.

> Custody is number one. The way it impacts these guidelines can make the guidelines moot to a certain degree because . . . [t]hey find that . . . the mom is the primary parent and the dad's the primary breadwinner.

Parenting Time

some participants believed that the current timesharing arrangement in California law leads to conflict and arguments between parents, who sometimes try to maximize or minimize time with the child to get the most advantageous support order. As one participant commented:

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> Since 'timeshare' is factored directly into the Guideline formula, any parent wishing to modify child support up or down merely litigates timeshare instead of litigating child support. . . . Accordingly, the Guideline's timeshare component, as implemented, shifts child support conflicts into timeshare conflicts, increasing the stakes and conflict between the parents. This shifting of the conflict leads to a longer, more expensive, and less efficient settlement of the underlying issue.

Reducing Conflict

Participants offered some concrete suggestions for reducing conflict between parents. One suggestion was to adjust for timesharing in block times (e.g., 0 to 10 percent timesharing; 11 to 25 percent timesharing; and so forth) to reduce the conflict over parenting time. One participant stated:

> [I]f you have two parents with equal timeshare and there is no disparity of income, in other words, their income is exactly the same but they are sharing [ ] custody, then neither owes each other support.

Another participant suggested early-intervention education during the divorce process about the responsibility of raising a child as a way to reduce conflict between parents. A participant suggested that there would be less conflict if the guideline were less exact and income measurements had a +/–20 percent threshold (i.e., if father and mother make within 20 percent of one another, there would be no order).

Fairness

Overall, participants did not believe the current child support guideline produces a fair result. They expressed concerns about how it treats specific people or groups of people, like noncustodial parents, and what goes into the calculation. As one participant commented:

> No, it's not fair because . . . they don't look at parents as equal people. So you're starting off on a bad foot in the first place.

Treatment of Low-Income Parents

Participants consistently believed that the guideline is unfair to low-income parents. In particular, many participants expressed concern about how the guideline treats low-income *noncustodial* parents. One participant commented:

> I think there should be an absolute floor. If you're below a certain income you don't pay child support period, poverty level or whatever.

Participants expressed considerable support for increasing the low-income adjustment:

> It's a thousand now to get the deduction and I think it should be higher.

> The way the guideline is working out for low-income [people] is too high. It is patently hurting low-income [people].

One participant also identified the need to determine a credit for a child when the noncustodial parent is receiving Social Security disability.

Cost of Raising a Child

Some participants preferred that the guideline be based solely on the cost of raising the child, rather than on income. This was particularly true in the San Francisco focus group, where many of the attendees were in agreement on this issue. They believed that this method would be less subjective in determining the child support amount and would be more accurate because it is too easy for people to hide what they really make. In their view, basing the guideline solely on the cost of raising the child would create less conflict between parents. One participant in Burbank agreed with this viewpoint, but most of the other participants in Burbank felt that this method would be unreasonable because the amount that a parent spends on a child naturally varies by income. As one participant said:

> The cost of raising children is not independent of family income.

Standard of Living

Some participants questioned the principle that the child should share in the standard of living of both parents, even it if means improving the standard of living of the custodial parent. Participants also commented that assessing high support levels to high earners was unfair because it increases the custodial parent's standard of living while lowering the noncustodial parent's.

Imputing Income

Participants expressed concern about imputing income based on earning capacity, particularly with the economic downturn, because people have lost jobs and have trouble finding new jobs at the same income level. One participant disagreed, however, and pointed out that some parents voluntarily quit their jobs to avoid high child support payments.

Additionally, several participants expressed concerns about imputing (or presuming) income for low-income parents in general.

Other Fairness Concerns

Participants expressed a variety of other miscellaneous concerns relating to the fairness of the guideline:
- One participant expressed the view that reexamining the guideline to neutralize tax benefits would reduce conflict.
- Several participants preferred that the guidelines use gross rather than net income to establish child support awards.

- A number of attendees expressed support for a legislative bill that would define the reasonable cost of health care at 5 percent of income.
- One participant commented that the guideline should clarify that a judge cannot order the custodial parent to conduct a job search as a condition to receiving child support benefits.
- A number of participants expressed general concerns about the economic basis of the guideline. These participants believed that the economic studies should be reexamined.
- Some participants viewed the interest that accrues on child support as problematic, particularly for those in prison.
- Participants expressed some minor support for the idea that in-kind payments should be taken into account in the guideline.
- One participant commented that the guideline percentage at high-income levels is too high:

> [Y]ou can wind up in a situation where you do breed . . . laziness in a parent which is receiving support.

Application
Some participants believed the child support guideline is applied incorrectly in too many cases. Many participants raised concerns about the mechanics of the application of the guideline and how it is actually applied in practice and about the resulting integrity of the order.

Inconsistent Application
Participants contended that parents are assessed different child support amounts depending on who performs the calculation.

> You talk to one [case] worker and you'll get one answer. Then you talk to somebody else, you will get another answer.

One participant expressed the view that judges make changes and do not state the reason for the deviation. In addition, a number of participants commented that they thought the SDU calculator (DCSS calculator) and the DissoMaster produce different numbers.

Better Training Needed
Some participants suggested that better training should be provided to DCSS and court staff.

> There needs to be better training with department workers so that people . . . get the same answer from two or three people . . . and that accurate information is given to people.

Income Information
Participants suggested that taking more time and care to obtain income information from parents would produce more accurate and fair child support order amounts. One participant commented that DCSS staff do not take the time to find accurate information.

Perjury

A few participants suggested that the issue of perjury needs to be addressed in the context of child support hearings. They believed that perjury on the part of parents testifying in court taints the entire process.

> Perjury is the number one issue that needs to be dealt with in this whole system.

> Perjury must be addressed or this whole guideline is a joke . . . . I know the D.A.s in California are very reluctant to prosecute perjury for some reason. I don't understand that because that's the foundation of the whole legal system.

One participant mentioned a related issue:

> [G]uys . . . are paying for children that DNA has proven they did not father.

Enforcement and Accountability

The enforcement of child support orders was a concern of several participants. One participant expressed the concern that DCSS will go after those payers who are easy to get money out of and ignore the rest. Another participant suggested that there should be a mechanism to determine whether child support is actually spent on the child.

Chapter Summary

Participants expressed many concerns about the current child support guideline. Most participants offered constructive advice on how they believed the guideline could be improved. Some participants wanted to start fresh with a new guideline. There was no consensus, however, on the framework of a new guideline.

CHAPTER 7

Conclusions and Recommendations

This chapter presents conclusions and recommendations from the 2010 review of the California Uniform Guideline. The guideline has been reviewed in accordance with state and federal requirements (Fam. Code, § 4054(a); 45 C.F.R. § 302.56). The review fulfills the federal requirements to consider economic evidence on the costs of raising children and to analyze case file data to determine how the guideline is being applied and to ensure that deviations are limited. Pursuant to Family Code section 4054(f), representatives from a cross-section of groups were invited to participate in focus groups to share their perspectives and recommendations. In addition, pursuant to Family Code section 4054(d), the review considered two matters in depth: child support guidelines for low-income families and underlying factors affecting statutory provisions for establishing and modifying medical support orders.

The conclusions are organized by chapter. Recommendations follow the conclusions.

Basis of Child Support Guidelines and Studies of Child-Rearing Expenditures

The economic basis of the California guideline was reviewed and compared to those of other state guidelines. The California guideline was also compared to the most current economic evidence of child-rearing expenditures. In addition, other factors that affect state guideline formulas and schedules were explored.

Conclusion 1: The California guideline and 36 other state guidelines are based on a "continuity-of-expenditures model"—that is, the child support award should allow the children to benefit from the same level of expenditures that would have been provided had the children and both parents lived together. State guidelines based on this concept apply it equally to children of divorce and children of unmarried parents, regardless of whether the parents ever lived together, because most states believe that children should not be the economic victims of their parents' decisions to live apart. Most of these states, including California, base their guideline formulas on measurements of child-rearing expenditures in intact families and periodically assess their formulas against newer measurements to ensure that they produce an adequate amount.

There are other data and premises that could be used to develop state guidelines or determine support for special populations. These include economic data such as child-rearing expenditures in single-parent families, foster care payments, and the self-sufficiency wage. Further, a child support guideline formula or parts of the guideline formula could be based on other factors besides child-rearing expenditures. For example, when both parents are impoverished, neither parent can afford what it actually costs to raise a child, so many states base the guideline amounts at very low income or token amounts or an amount that leaves the obligor with

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sufficient income after paying child support for at least a subsistence level of living. Other alternatives could include consideration of the relative standard of living of the obligor's household and the household of the obligee and the children after payment or receipt of child support or recognition that one or both parents have children with multiple partners. With the exception of guidelines amounts for low-income parents, however, there is no to little experience with these alternatives.

Conclusion 2: The California guideline formula is generally within the range of measurements of child-rearing expenditures—but at the high end of the range of measurements of child-rearing expenditures. This assessment is based on comparisons of the California guideline to eight measurements of child-rearing expenditures, including those that underlie other state guidelines and current measurements.

The California guideline is assessed by comparing its parameters to eight estimates of child-rearing expenditures that either underlie other state guidelines or represent the most current estimates available.[209] At the core of the California guideline formula is the *K*-fraction, which represents the percentage of net income devoted to child-rearing expenditures for one child. The *K*-fraction for parents whose combined income is between $801 and $6,666 net per month is 25 percent. The estimated percentage of total expenditures devoted to child rearing is 24 to 27 percent and could be as low as 18 percent when work-related child-care expenses and out-of-pocket medical expenses, which are additions to base support (i.e., the amount calculated from the *K*-fraction) under the California guideline, are excluded.

The California guideline multipliers for two and three children are 1.6 and 2.0, respectively. The multipliers calculated from the measurements of child-rearing expenditures ranged from 1.4 to 1.7 for two children and from 1.6 to 2.0 for three children. Most of the estimates of child-rearing expenditures do not extend to four or more children. Instead, the California multipliers are assessed by comparing them to those used in other states. We found that the California guideline formula for one, two, and three children is within the credible range of the estimates of child-rearing expenditures but on the high end of the range; and most of the California multipliers for four and more children are generally too high relative to those used in other states. The legislative intent, however, was that the California guideline should be higher than those of other states because of California's relatively high cost of living (Fam. Code, § 4053(1)).

Conclusion 3: Many other assumptions and factors besides measurements of child-rearing expenditures form a guideline formula. These include how the guideline formula adjusts for higher income, obligee income, and shared physical responsibility, as well as the use of gross or net income as the guideline basis. California's approach to some of these factors creates some

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[209] Various studies estimate child-rearing expenditures. They produce different results as a result of differences in study methodologies, assumptions, and data years. For this reason, state guidelines are typically assessed as appropriate if they are generally bracketed by the lower and upper bounds of credible estimates of child-rearing expenditures.

anomalies and differences from other state guidelines in certain circumstances, but they are generally limited or inconsequential.

The percentage of income devoted to child-rearing expenditures arguably decreases as income increases. As a consequence, most state guidelines, including California's, yield a smaller support award amount when the obligee has more income even though obligor income is unchanged. There are, however, some isolated anomalies under the California guideline resulting from the structure of the combined income bracket of $801 to $6,666 net per month.

Many state guidelines, including California's, yield a smaller amount when the obligor has more time with the child and all other circumstances of the cases are unchanged. The amounts calculated under the California guideline change with incremental changes in the timesharing arrangement (e.g., adding or subtracting one or two overnights per month) while some state guidelines do not always change because one or two overnights are added or subtracted.

Whether a state bases its guideline on gross or net income is a policy choice. Regardless of the basis, most states standardize the gross to after-tax income conversion. That is, they use actual tax code to convert gross income to net or back out net income to gross. The latter is necessary in gross-income guidelines because most measurements of child-rearing expenditures relate to after-tax income, not gross income.

Findings From a Review of Case Files

A random sample of 1,226 child support orders entered in 2008 was drawn to analyze how the guideline is being applied, the extent to which it is being deviated, and why the deviations occur. The sample spanned the same 11 study counties as in the last review and ranged in size and socioeconomic factors reflective of the diversity of California. The sample included almost equal shares of IV-D and non-IV-D cases. The preliminary findings were shared with representatives of advocacy groups and commissioners of the study counties in focus group settings to aid in the interpretation of the analysis.

Conclusion 4: The percentage of orders that deviated from the guideline has increased. The 2010 study found guideline deviations in 15 percent of the cases reviewed. Commissioners and stakeholders attribute the increase to the economic recession and better-educated parents.

The 2010 deviation rate is statistically greater than the deviation rates of earlier reviews (i.e., the deviation rate in 1998, 2001, and 2005 ranged from 9 to 10 percent). Most (60 percent) of the deviations result from a stipulation between the parents, and most (69 percent) are downward. In general, commissioners from the study counties believe that deviations increase when there is an economic downturn and parents have less income. For example, some commissioners acknowledged that they deviate in cases where the obligor has very low income and payment of the guideline amount would impoverish the obligor. The advocates also recognized that judges are examining cases individually to determine what parents can realistically pay. Additionally,

advocates suggested that parents are more educated about their potential eligibility for a deviation and are more proactive about requesting it.

Conclusion 5: Commissioners and advocates agreed that the current low-income adjustment is inadequate. Fifteen percent of the obligors in the case file review had incomes below $1,000 net per month and so were eligible for the low-income adjustment. Despite increases in the minimum wage, this is the same percentage of obligors who were eligible during the last review. It is indicative of the economic distress that many parents currently face as a result of high rates of under- and unemployment and the lack of even low-paying jobs.

The percentage of obligors eligible for the low-income adjustment (15 percent) is the same as in the previous case file review even though the low-income threshold has not changed and the minimum wage has increased. This undoubtedly reflects the economic recession, which has resulted in job losses and reduced other jobs from full-time to part-time work. The adjustment is typically granted more often in IV-D cases than non-IV-D cases. Commissioners suggested that the low-income adjustment may not always be applied in default or stipulated orders. It is also not applied when the obligor's actual income is zero. The adjustment was applied in 59 percent of eligible cases. Commissioners and advocates agreed that the current low-income adjustment is inadequate.

Conclusion 6: Many of the guideline factors designed to yield more responsive orders are being applied very infrequently. A hardship deduction is being made to the incomes of only 4 percent of the parents. Orders for additional support are also infrequent. Orders for work-related child-care expenses are applied in 12 percent of the cases, and orders for uninsured health-care costs, are applied in 18 percent of the cases. Other adjustments to income and orders for other additional support are applied even less frequently. Commissioners attribute these trends to the economic downturn, a higher rate of default orders, and smaller proportion of modified orders in the sample.

In general, permissible subtractions from income (e.g., a hardship deduction because the parent has additional children from a previous or subsequent relationship living with him or her) and orders for additional support (e.g., work-related child care) are occurring less frequently than they did in the previous review. One reason is that parents who do not participate in the order establishment process (as is often the case in default orders) may not know about these adjustments. Other explanations for this pattern are the economic downturn and the types of cases drawn for this study. The commissioners believe that child-care expenses are being ordered less frequently because more parents are unemployed or using relative care. The commissioners also believe that the hardship deduction is applied more often in modified orders than new orders because parents seeking modified orders are more likely to have subsequent families and because the 2008 sample captured a disproportionate share of new orders.

Conclusion 7: The percentage of orders entered through default, 46 percent, is back up. This is after a concerted effort several years ago to lower the number of orders entered by default in California.[210]

The percentage of orders entered through default decreased from 44 percent in 2001 to 29 percent in 2005 and then went back up in the 2010 review to 46 percent. Commissioners and advocates attribute the increase to several factors. When the last sample was pulled for the 2005 study, DCSS was engaged in a concerted effort to reduce the incidence of default. Recent cutbacks of DCSS staff, however, may have lessened efforts in this area. Commissioners believe that many defaulted orders are ones in which DCSS requested a relatively low order that the obligor did not contest. Advocates believe that the increase in defaults is due to the economic recession and may reflect the unaffordability of attorney representation for many parents.

Conclusion 8: The percentage of orders involving presumed income has increased since the last guideline review. The percentage of orders with income imputation, however, has not increased. State statute requires that income be presumed in IV-D cases when the obligor's income or income history is unknown. State statute provides that income can be imputed in any child support case (regardless of IV-D status) based on the parent's earning potential.

Income can be presumed for obligors in IV-D cases if there is no information about the parent's income or income history (Fam. Code, § 17400(d)(c)). Obligors' income was presumed in 15 percent of IV-D cases in the 2010 case file review. Income imputation is provided in the California guideline (Fam. Code, § 4058(b)). Income imputation, which is based on the parent's earning potential, decreased from 7 percent during the last guideline review to 3 percent in 2010. Commissioners suggest that the incidence of income imputation has gone down because it is more difficult to show that work is available.[211]

Conclusion 9: Health insurance is frequently ordered, and medical support is ordered in most IV-D cases. The latter is important because of new federal medical support rules that became effective in 2008.

An order for at least one parent to provide health-care insurance was made in 80 percent of the cases reviewed. The mother was ordered to provide insurance in 9 percent of these cases, the father in 48 percent, and both parents in 42 percent. The case file data indicate that 95 percent of IV-D cases contain an order for health insurance and/or uninsured health-care expenses.[212] This is important to fulfill the 2008 federal medical support requirements that require medical support be ordered in most situations.

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[210] As discussed in Chapter 3, default orders are correlated with nonpayment. The general premise is that payments will be higher when parents are engaged in the order establishment or modification process.

[211] Case law (*In re Marriage of Regnery* (1989) 214 Cal.3d 1367) provides a court, when imputing income, should consider whether there is actual opportunity to work, exemplified by an actual employer willing to hire, and other factors.

[212] As discussed in a Chapter 5, orders for health insurance and/or uninsured health-care expenses are medical support orders.

Conclusion 10: Information is frequently missing from case files. Critical information was missing in many child support cases reviewed for this study. Ten percent lacked documentation of the calendared child support court event; 19 percent did not contain information on the parents' income; 9 percent lacked information on the child support order; and 22 percent did not specify the guideline amount.

Low-Income Parents and Child Support Guidelines

This review considered how other state guidelines addressed low-income parents and why poverty and low-income create special circumstances that need to be addressed in the determination of appropriate guideline amounts.

Conclusion 11: Historically, many IV-D families and obligors have poverty or low incomes. The current high unemployment and underemployment rates likely contribute to even higher incidences of poverty and low income than were previously documented.

Although current California data are not available, national data from 2001 found that one-third of IV-D families had incomes below the poverty level and that about three-fifths had incomes below 200 percent of the poverty level. In 1999, more than 60 percent of California parents with child support arrears had net incomes below $10,000 per year. The current situation in California is likely to be worse than in other states because of California's above-average unemployment rate (12.5 percent as of February 2010) and underemployment rate (20 percent as of January 2010).

Conclusion 12: When child support obligations are set too high for low-income obligors, they are unable to meet their own subsistence needs. This leads to many severe consequences: a reduced incentive to work and to work in the mainstream economy; depressed child support payments; higher arrears balances; and attenuated parent-child relationships, which in turn, can adversely affect child outcomes.

If an obligor works full-time at the state minimum wage, his or her after-tax income after paying the guideline amount for one child would be below the current federal poverty guideline for one person. In other words, the obligor would have insufficient income to live at least at subsistence level. Some research findings indicate that child support awards that are set too high for low-income obligors may be a disincentive to work and drive these obligors into the underground economy, where their earnings are not subject to immediate wage withholding to pay child support. Still another study finds that arrears accumulate when the obligor's order is more than 20 percent of his or her gross income, particularly at low incomes. As of 2008, almost $20 billion in child support arrears was owed in California. A previous study of California arrears found that only a small proportion will ever be paid because many obligors have low incomes and because of other factors, such as California's assessment of interest (at a rate of 10 percent), which contributes to arrears growth outpacing payments.

Besides financial consequences, high child support orders for low-income parents adversely affect child outcomes. Most research finds a positive correlation between child support payments and father-child contact. Thus, crafting orders that low-income parents are able to pay is important because, as supported by the research, paternal involvement is significantly associated with reduced rates of out-of-wedlock childbearing, the high school dropout rate, substance abuse, and juvenile delinquency.

Conclusion 13: The California guideline amounts for low-income obligors are high relative to other states. The low-income adjustment under the California guideline is inadequate. Unlike the low-income adjustment used in many state guidelines, it does not relate to the federal poverty guideline for one person. Its income threshold (i.e., the low-income adjustment applies when obligor net income is less than $1,000 per month) has never been updated. The income threshold is too low to apply to typical low-income situations (i.e., obligors earning minimum wage); hence these low-income obligors are not eligible for the low-income adjustment and payment of the unadjusted guideline amount leaves the obligor with insufficient income to live above poverty level.

In four different case scenarios that considered obligors with no reported income or minimum wage income and a varying number of children, the California guideline ranked 8th, 24th, 13th, and 5th highest among state guidelines. Other states that typically ranked higher than California presumed a higher income when the obligor's income was missing, had a higher state minimum wage, or did not provide a low-income adjustment. Most state guidelines base their low-income adjustment on the federal poverty level for one person or full-time, minimum wage earnings. Some state guidelines index their low-income adjustment to the federal poverty level, which is updated annually. The low-income adjustment under the California guideline does none of these things. It is applicable to net incomes below $1,000 net. This is below what can be earned from full-time work at the state minimum wage ($8 per hour; $1,386 gross per month or $1,200 net per month). The $1,000 threshold has not changed since it was first adopted in the early 1990s.

Conclusion 14: California's income presumption policy exacerbates the guideline problems for low-income parents; the obligor's income is often presumed to be more than it actually is or job opportunities available for obligors are presumed to pay more than they actually do.

Family Code section 17400(d)(2) provides that if a support obligation is being established by the local child support agency and the obligor's income or income history is not known, income is presumed at minimum wage for 40 hours per week. Presuming income above an obligor's actual income can produce high percentage orders. (Some California data indicate orders that consume 44 percent of an obligor's net income.) This policy does not recognize that employment opportunities are limited. The statewide unemployment rate is 12.5 percent (as of February 2010) and the statewide underemployment rate, which includes those seeking full-time work who can find only part-time work is 20 percent (as of January 2010). Almost all other states have policies that consider the current job market or presume fewer work hours or that contain other, less-stringent, provisions.

Medical Support Provisions

Child medical support is an integral part of child support. Medical support orders can require insurance coverage for the child by one or both parents, specify how a child's uninsured health-care costs will be allocated between the parents, require payment that is distributed to the Medicaid (or similar agency) if the child is covered by Medicaid (or a similar public entity), or a combination of these types of orders. New federal medical support rules imposed in 2008 necessitate a closer look at state provisions for ordering and modifying medical support.

Conclusion 15: Although the 2008 federal medical support rules impose many new requirements on states—including state provisions for the establishment and modification of medical support—2010 health reform will likely change future federal medical support requirements.

The federal Office of Child Support Enforcement (OCSE) is currently assessing whether current federal medical support policies are congruent with 2010 health reform. They anticipate changes, but the scope of those changes is currently unknown. The 2008 federal medical support rules, however, are currently in effect. Many states, including California, are still adopting and developing changes to conform to the 2008 rules. Cognizant that the federal medical support rules may change in the future, however, many states are making only the minimum changes necessary to fulfill the 2008 requirements.

Conclusion 16: California statute already requires that either or both parents can be ordered to provide insurance coverage for the children and that orders allocate the child's uninsured health-care expenses between the parents. The 2008 federal medical support rule that applies directly to state guidelines mandates that a state guideline provide for how the child's health-care needs will be addressed.[213] This encompasses orders for one or both parents to carry insurance for the child, orders for how the child's uninsured health-care expenses will be allocated between the parents, and other types of medical support.

Essentially, the 2008 federal rules eliminate the longstanding presumption that the obligor has employer-sponsored insurance available for children and that it is the most appropriate coverage for the children. Instead, the 2008 rules encourage orders for health insurance from the most appropriate source. This could be the obligee or, at state discretion, a stepparent who has employer-sponsored insurance. The rules also recognize that some of the child's health-care expenses may not be covered by insurance, so an order addressing these expenses may be appropriate. In addition, it recognizes that in some cases neither parents may have employer-sponsored insurance and that the child will be covered through Medicaid (called Medi-Cal in California), SCHIP (called Healthy Families in California), or another public entity's program. California already provides that either or both parents shall carry insurance for the child when it is available at no cost or a reasonable cost to the parent (Fam. Code, § 3751(a)(2)). California

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[213] 45 C.F.R. § 302.56(3).

also provides for reasonable uninsured health-care expenses in Family Code sections 4062(2) and 4063.

Conclusion 17: California statute currently does not provide an income-based definition of "reasonable cost" but does address what is "accessible" health care. Although not called "cash medical support" (and states are not required to use the federal term), California's provision of reasonable uninsured health-care expenses is a form of cash medical support. To assist with the implementation of the 2008 federal medical support rule that requires IV-D agencies to petition for health insurance that is reasonable in cost and accessible to the child and/or "cash medical support," many states are including definitions of "reasonable cost," "accessible," and "cash medical support" in their guidelines. The 2008 federal rule provides for considerable state discretion in these definitions; however, the reasonable-cost definition must be income-based.

Federal regulation (45 C.F.R. § 303.31(1) & (2)) requires that the IV-D petition for child support include private insurance that is accessible to the child and reasonable in cost and/or cash medical support. Most states that have an income-based definition of reasonable cost are adapting a rate of 5 percent of the parent's income as the threshold that the child's premium costs cannot exceed to be deemed reasonable in cost. Although the federal rule is clear that states have the option to define another reasonable income-based standard, the federal rule does suggest 5 percent. Most states that have a definition of "accessible" insurance, like California, consider whether the insurance is geographically accessible to the child. "Cash medical support" can be one of three things, including orders for the child's uninsured health-care expenses. Most states are fulfilling this requirement for medical support by ordering one or both parents to provide accessible health insurance for the child when it is available at a reasonable cost and including provisions for uninsured health-care expenses in the order (e.g., each parent is responsible for half of the child's uninsured health-care expenses).

Conclusion 18: The California guideline adjusts for the child's health insurance differently than do most state guidelines. While most states prorate the child's share of the insurance premium between the parents, California subtracts the insurance premium from the parent's income. Depending on which parent pays the premium, the support award is increased or decreased by the other parent's share. States that have recently replaced the subtraction method for the proration method find that the subtraction method was not a sufficient adjustment for skyrocketing premiums and that the proration method is easy and fair.

The base formulas and schedules of most state guidelines do not include the cost of the child's health insurance. Instead, most state guidelines consider the actual cost of the child's health insurance elsewhere in the guideline calculation. It may be subtracted from income or be prorated between the parents. When it is prorated, if the obligor pays the premium, the obligee's prorated share is subtracted from the base support award; and if the obligee pays the premium, the obligor's prorated share is added to the base support award.

Input From Stakeholders

The review included three focus groups with stakeholders, mostly representative of custodial or noncustodial parents and/or children's interests. Two focus groups concentrated on stakeholders' perceptions of the guideline's comprehensiveness and fairness. The third focus group called for stakeholders' assistance in the interpretation of the preliminary findings from the case file review. The conclusions, below, are drawn from the first two focus groups.

Conclusion 19: Focus group discussions among advocates reveal that parents frequently fail to comprehend what goes into the guideline calculation and need more education to improve their understanding.

Advocates suggest that parents receive more education about how the guideline is calculated. They believe that when parents fail to understand the factors that go into the guideline calculation, they sometimes distrust the calculation and/or resent the system. They generally believe the calculation is too complex and should be made more transparent. Some advocates suggested methods of outlining the child support formula for parents to review, including a brochure at the court, posting information outside the courtroom, or straightforward information on the court Web site. While some believe that access to online calculators are helpful to the general public, others believe that they create confusion because there are multiple calculators available that can produce inconsistent results.

Conclusion 20: Advocates who attended the focus groups consistently believed that the guideline is unfair to low-income parents.

Many advocates expressed concern about how the guideline treats low-income parents, and low-income noncustodial parents in particular. One advocate summarized the collective opinion of most when he stated that the guideline is "patently hurting low-income people." Advocates support raising the low-income adjustment level. One advocate thought there should be an absolute income floor (irrespective of the poverty level) below which the noncustodial parent would owe no child support.

Conclusion 21: Many of the advocates' issues concerned systematic issues involving the guideline or were beyond the scope of the guideline.

Advocates participating in the focus groups saw the guideline as interrelated and inseparable from other family law issues including custody and court and agency rules and procedures. For example, some advocates believed strongly in presumptive equal custody and that the guideline should reflect that. Still other advocates told stories about problems that parents recently have encountered because they lost their jobs and/or were seeking a modification to their child support order. In all, advocates believed these interrelated issues create parental conflict that is harmful to child well-being. In addition, some advocates proposed to completely revamp the guideline and adopt a new model that did not consider the income of the parents.

Recommendations

Five major recommendations emerge from the research conducted for this guideline review.

Recommendation 1: Update and/or modify the low-income adjustment in the guideline.

The current guideline provides for a low-income adjustment when the obligor's net income is below $1,000 per month. The $1,000 threshold has never been updated and, unlike most low-income adjustments in other state guidelines, it does not relate to the federal poverty guidelines for one person or full-time minimum wage earnings. Moreover, it is inadequate, and research findings suggest that it inadvertently could reduce the obligor's incentive to work in the legitimate economy, pay support, and maintain contact with the child, potentially resulting in other adverse consequences to child outcomes.

The income threshold is too low to apply to common situations when payment of the existing guideline amount leaves the obligor with income below poverty level. For example, a minimum wage earner[214] would not be eligible for the current low-income adjustment. Payment of his or her support award, however (i.e., $300 per month based on the guideline amount for one child),[215] would leave the obligor with below-poverty income. That is, his or her income after payment of child support and taxes would be $900 per month, less than the current federal poverty level for one person. Most low-income adjustments in state guidelines do not have an income threshold for applying the adjustment. Rather, most state guidelines provide that the support award be based on the difference between the obligor's income and a self-support reserve (typically based on the federal poverty guideline for one person) if that amount is less than the standard guideline calculation. This protects the obligor from being impoverished as a result of paying child support. The adjustment is simple and is often incorporated into a state guideline table but is more transparent if it is included in the guideline worksheet.

Some state guidelines also provide that the self-support reserve be updated annually in accordance with annual updates to the federal poverty guidelines. The use of a self-support reserve test, however, necessitates a minimum order when the obligor's income is below the self-support level. For example, an obligor whose income is $600 per month has income below the current federal poverty level for one person ($902.50 per month). Some state guidelines provide a minimum order but also specify that an order can be zero in certain situations, such as when the obligor is incapacitated and has no income (e.g., the obligor is institutionalized).

An alternative to adopting the self-support test would be to expand the income threshold of the current low-income adjustment. Several focus group participants suggested expanding the

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[214] Assuming a 40-hour work week and the state's minimum wage of $8 per hour, this would yield $1,386 per month in gross income and $1,200 per month after taxes.

[215] Assuming the obligee has no income and there is no timesharing or adjustment for other factors.

threshold for its application to $1,500 net per month. All of the focus group participants unanimously supported a change to the low-income adjustment.

Recommendation 2: Evaluate the current income attribution policies. This includes codifying case law on income imputation and reviewing the existing income presumption provision to determine if it continues to be consistent with the legislative principles regarding child support.

California's provision for income imputation is thin and lacking in detail relative to those of most state guidelines. However, California case law (*In re Marriage of Regnery* (1989) 214 Cal.3d 1367) spells out what should be considered when imputing income as thoroughly as any other state guideline provision for income imputation. Specifically, it provides a three-pronged test to determine whether a court should consider a parent's earning capacity in lieu of his or her actual income: (1) ability to work, including age, occupation, skills, education, health, background, work experience, and qualifications; (2) willingness to work, demonstrated by good faith efforts, due diligence, and actual meaningful attempts to secure employment; and (3) opportunity to work, exemplified by an actual employer willing to hire. It would benefit guideline users, particularly parents, if this case law were codified. It would improve the transparency of California's income imputation policy and make the guideline outcome more predictable for parents.

California's income presumption policy should be evaluated to determine if it is consistent with the legislative principles regarding child support (Fam. Code, § 4053). The current policy implicitly presumes that obligors in IV-D cases can and should find full-time work at minimum wage. While many states make similar presumptions when imputing income, most states also consider local employment opportunities as part of the process. In addition, if the legislature re-examines the approach to low-income obligors, as recommended in this study, they will need to determine if these changes should also apply to cases in which presumed income is used to determine the child support amount.

Recommendation 3: Educate stakeholders and equip them with information so they can make the current system work better. In addition, develop strategies to engage stakeholders and encourage their active participation in the child support process.

One of the recurring themes of this study is the stress that the economic recession has put on families and obligors. Yet parents are not fully utilizing all of the guideline provisions that are intended to deal with each case's unique economic circumstances. The low-income adjustment is not applied in all cases in which the obligor is eligible. The percentage of parents with hardship deductions is down, even though it seems logical that more parents would need it during an economic recession. Fewer orders are being entered for the child's uninsured medical expenses although parents are losing their employee health benefits. Parents do not understand that their orders are not automatically modified when they lose their jobs. In addition, the findings from the case file data indicate that fewer parents can learn how the guideline works. Fewer parents are represented by attorneys and more orders are being entered by default, which is an indication

that the parent is not involved in the order establishment process. Parents who obtain orders by default typically lack contact with DCSS, family law facilitators, and judges or commissioners—the very people we rely on to educate parents about the guideline. Involvement and education have ripple effects. When parents better understand the guideline, they become engaged in the process, are more forthcoming with information (e.g., documentation of actual earnings or child-care expenses), know when and how to seek a modification, and can understand and use its provisions for unique situations when appropriate (e.g., the low-income adjustment when the obligor is eligible).

Recommendation 4: Adopt any necessary conforming changes so that California can meet the 2008 federal medical support rules that are currently in effect but also recognize that 2010 national health reform may produce changes to the federal rules in the future as well as changes in how states approach medical support.

For the most part, California has the statutory framework needed for California to meet the 2008 federal medical support rules. One possible exception is that California does not provide an income-based definition of "reasonable cost" of insurance in statute. Most states are defining a child's share of the insurance premium to be reasonable in cost if it does not exceed 5 percent of the parent's income. Some states recognizing the high cost of insurance set the threshold higher, thereby producing more orders for private health coverage. Still other states concerned about affordability issues set the threshold lower or exclude obligors with poverty or near-poverty income from being ordered to provide private health insurance.

Recommendation 5: Encourage better and more detailed information in the case file.

Income information, order amounts, guideline amounts in orders with deviations, and other pertinent information were missing in a notable number of case files. For some parents, this is the only record they have of the basis of the order. When a parent becomes unemployed or realizes a hardship or another situation that might warrant a modification, it is important that the file contain a complete record of how the court or DCSS **arrived at the** original order amount.

APPENDIX A

Parental Expenditures for Children: Rothbarth Estimates[1]

The continuity-of-expenditures model that underlies child support guidelines attempts to provide children with the same amount of expenditures that the children would have received had they lived with their parents in an intact family. Knowledge of patterns of spending on children in an intact family is required to implement this guideline model. This report will provide estimates of this essential information from the most recent consumption data available from the Bureau of Labor Statistics.

Determining how parents devote the family's spending to their children would seem to be a rather simple and straightforward task: just ask parents to keep track of these expenditures; then ask the parents to determine which expenditures were made on behalf of their children. In application, however, this is difficult. Some consumption goods could be allocated with confidence if they were purchased for a specific individual. For example, the purchase of a pair of shoes could be allocated to the person for whom the shoes were purchased. In other, more complicated cases, spending could be allocated on the basis of a reasonable assumption or based on information gathered in other surveys. For example, consider a family's expenditures for food. While groceries are purchased for the entire family, it is possible to observe individual family members' actual consumption of the meal and then allocate the cost of that meal to each individual family member based on his or her consumption. Alternatively, a food bill could be allocated in proportion to the nutritional requirements of the individual family members. That is, if one member requires twice the nutritional content as another member, a calculation could assume that the first individual consumed twice as much food as the other member.

Allocations are more complicated, however, when the expenditures are not readily divisible by individual family member consumption. For example, it is more difficult to determine a reasonable allocation of expenditures on mortgage, utilities, and other home expenses. One approach to determining an allocation in this scenario would be to average the spending on home expenses and other "publicly consumed" goods across all family members. While this approach has a commonsense appeal, it is based upon a per capita calculation (i.e., dollars spent on a good divided by the number of family members), a method that has been undermined by significant empirical evidence.

Allocating jointly consumed goods on a per capita basis has limitations. For purposes of developing child support guidelines, the "average cost" arguably overstates the "true" cost of the child to the parents. Alternatively, most child support guidelines are developed from estimates of

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[1] Prepared by David M. Betson, Associate Professor, Univ. of Notre Dame.

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child-rearing expenditures derived from a "marginal cost" approach. The marginal cost approach is based on the concept that the amount of housing or any other jointly consumed good should be the additional amount of housing (or other jointly consumed good) that the parents purchase because of the presence of the children. According to fundamental economic theory on average and marginal cost, if there are economies of scale in housing consumption, then the "average cost" of housing should diminish with increasing family size. Further, if the average cost of housing is falling, then the marginal cost associated with each additional family member should be less than the average cost. In other words, under the marginal cost approach, the cost of the second family member is less than the cost of the first family member, and the cost of the third family member is less than the cost of the second family member, and so forth.

How can the "marginal housing costs" of children be estimated? One commonsense approach would be to calculate the difference in housing expenditures between parents with children and childless couples with the same amount of total spending. While the simplicity of this approach is appealing, economists warn that it will not capture the true marginal cost of housing attributable to children. If children represent an economic cost to their parents, then the childless couple, even though they have the same total spending, will be "wealthier" than the parents with the children. Ignoring the effect of the increased standard of living of the childless couple on their housing expenditures would understate the true marginal housing costs attributable to the children.

One way to calculate housing costs attributable to children is to use the cost of an additional bedroom. For example, consider a married couple with one child who rents a two-bedroom apartment. The difference in rent between the two-bedroom apartment and a one-bedroom apartment within the same apartment complex would be deemed as the housing cost of the child. While a similar calculation would have to be created for those families who own their homes, this approach does have appeal for being direct and easy to understand. However, this approach will only understate the "true" marginal housing costs of children because it does not take into account that a childless couple's choice in home size is not just the difference between one and two bedrooms. For example, they may have chosen a home with less play room either inside or outside because they do not have a child. In this example, to assume that the presence of the child created a need for only an additional bedroom will understate the housing consumption of the child and consequently understate the cost of a child.[2]

Most economic studies of child-rearing costs approach the problem of allocating consumption to individual family members in a different manner. Instead of trying to allocate the spending on each consumption item separately, the marginal cost approach asks how much total spending a

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[2] The USDA (Lino & Carlson, *supra* note 20), in its annual reports on expenditures on children, uses the approach that attempts to allocate individual consumption purchases to children. In the past, the majority of the family's consumption was allocated on a per capita basis. While food, transportation, health care, and clothing were not allocated on a per capita basis, the USDA historically had allocated all other purchases, including housing, on a per capita basis. Only recently has the USDA changed its allocation of shelter and utility spending to reflect a more "marginal cost" allocation.

childless couple would require to be equally well off as two parents and a child with a given amount of total spending. If the childless couple had the same level of total spending as the parents with one child, then they would clearly be materially better off because they did not spend any money on the child. Hence, we would reduce the level of total spending by the childless couple such that they would be as equally well off as the family with a child. The difference in total spending by the two households is interpreted as the cost of the child or the level of spending on the child.

The challenge to the marginal cost approach, however, is how to determine when families of differing composition are equally well off. The two leading contenders are the Engel and Rothbarth approaches. These approaches differ from the previously described approach. Instead of allocating individual purchases to the children, these approaches allocate the entirety of the total spending of the family. In other words, the Engel and Rothbarth estimators are much more of a "top-down" approach than the "bottom-up" approach that common sense may lead one to pursue.

This report is organized as follows. In the next section, the data will be described, as well as the definitions of expenditure categories used in this study. The third section describes the assumptions and methods used by each of the three alternative approaches to estimating parental spending. The fourth section describes how I implemented the Rothbarth model. The empirical estimates derived from the Rothbarth approach will be presented and compared to previous estimates by the author and other researchers in the fifth section. The following section presents a sensitivity test of the major assumptions that I have made to estimate the Rothbarth model. The final section offers some concluding remarks.

Data and Expenditure Categories Employed in Study

The data used in this study are drawn from the Consumer Expenditure Survey (CE) conducted by the Bureau of Labor Statistics (BLS). The survey is based on quarterly interviews of roughly 7,000 consumer units (families). The data are used for the periodic revisions of the Consumer Price Index as well as other economic research and analysis of the spending patterns of American families. The CE is the only nationally representative sample of American families that collects detailed information on the spending habits of families. As such, it is the only available national survey suited for estimating parental spending patterns.

CE Sample Selection Criteria
The data used in this study are from the interview component of the CE beginning in the first quarter of 2004 through the first quarter of 2009. Consumer units are interviewed for five quarters; however, only data from the second through fifth quarterly interviews are reported in the public use files. While the BLS treats each quarterly response as an independent observation, the file used for this analysis is constructed from the BLS quarterly files to reflect a family's

annual expenditures.[3] While any unit can have up to four quarterly interviews, some households cannot be located or refuse to be interviewed and hence will have had fewer than four interviews.

This study was intended to focus on the spending patterns on children in families where both parents were present; consequently, the following sample restrictions were made:

- The consumer unit contained a *married* couple between the ages of 18 and 60 years old;
- The consumer unit contained six or fewer children;
- The consumer unit did not have any other adults (individuals 18 years old or older) present in the unit even if these adults were the children of the couple;
- The consumer unit did not have a change in family size or composition over the period in which the unit was interviewed; and
- Only consumer units with at least three completed interviews were included in the final analysis sample.[4]

These restrictions yielded a sample of 7,846 consumer units where 2,937 observations were childless married couples and 4,909 were married couples with children. Exhibit A-1 presents the distribution of units by the number of children (less than 18 years old).

Exhibit A-1. Sample Observations by Number of Children

Number of children	0	1	2	3	4	5 or 6
Number of observations	2,937	1,511	2,235	869	214	80

Source: Calculations by author.

Given the rather small sample sizes for four and more children, most of the following tables will group families with three and more children into a single category for presentation purposes. While families with four and more children will be included in the analysis, estimates for the cost of children will be presented for one through three children only.

Distribution of Total Outlays[5]

The major focus of this study is an examination of how families allocate their total spending to their children; consequently the first step is to define total spending. The BLS produces two measures of total spending in the consumer unit. The first is their expenditure concept (TOTEXPPQ and TOTEXPCQ), while the other is denoted as the consumer unit's outlays (ETOTALP and ETOTALC). The principle difference between these two concepts is that the

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[3] See Appendix A-1 for a detailed discussion of the use of annualized quarterly data in lieu of annual data on consumer units, as well as a rationale for basing the analysis on a single annual observation for every consumer unit instead of up to four annualized observations for every consumer unit.
[4] See Appendix A-2 for the details of how these sample selection criteria, as well as additional sample criteria used in later analysis, affected the size of the analysis sample.
[5] Appendix A-3 contains a more detailed description of the construction of variables used in this report.

outlay concept includes principle payments for any loans while the expenditure concept does not. Both of the above BLS summary measures include two forms of what most researchers would call savings: payment of social security payroll taxes and payments to retirement plans. For the purpose of this study, these forms of saving were subtracted from both specifications of the family's total spending.

In the past, some estimates have relied on the family's total expenditures as a measure of total spending, but as noted earlier, this concept does not reflect the family's principal payments on their debt, in particular, the principal payments on their home mortgage. The difference between the two measurements (i.e., "outlays," which does include principal payments, and "spending," which does not) is negligible for families with little or no debt or debt that has recently been financed (especially home purchases). However, if the family lives in the same home for a several years, the difference between the two concepts will grow as the mortgage payment reflects more principal payments than interest payments. Since most child support guidelines are intended to provide for children from ages 0 through at least 18 years old, the use of family outlays makes more sense than family expenditures. Nonetheless, the impact of using outlays rather than expenditures on the estimates is examined in more detail later.

Exhibit A-2 displays the distribution of total family outlays by the composition of the family. While the estimates are from interviews conducted from January 2004 through March 2009, all spending and income amounts have been expressed in constant 2006 dollars. Without controlling for available income, families with one and two children on average spend more than childless couples, who on average spend slightly more than families with three or more children. As a percentage of their available income, families with children have more current outlays than do childless couples.

For all family types, the average total spending of the family exceeds the median, indicating that the distribution of spending is not symmetrical around the average but "right skewed." That is, higher-income families spend more than lower-income families. The skewed distribution of both income and spending has implications for the construction of the estimation model. A proportional model based on the log of spending amounts is more consistent with the data than a model based upon levels.

Exhibit A-2. Distribution of Total Outlays by Family Composition

	Childless Couple	One Child	Two Children	Three or More Children
Average net income[6]	$64,745	$65,666	$68,135	$60,169
Average total outlays	$51,428	$55,968	$59,096	$49,491
Average propensity to spend[7]	79.4%	85.2%	86.8%	82.3%
Total expenditures at:				
5th percentile	$17,928	$19,190	$22,712	$21,259
25th percentile	31,265	34,482	37,774	34,516
50th percentile (median)	43,855	48,094	52,369	50,370
75th percentile	63,316	67,266	70,771	70,387
95th percentile	168,029	202,781	173,603	205,456

Source: Calculations by author (all dollar amounts are in 2006 dollars).

Spending by Expenditure Categories

Exhibit A-3 presents the sample mean of total family outlays by the number of children, as well as the budget share devoted to some of the BLS major consumption categories.

As shown in Exhibit A-3, both the presence and number of children increase the proportion of the family's budget devoted to housing, food, and apparel purchases. For all other consumption categories, the addition of children has no effect on the budget share or lowers the proportion of outlays devoted to that category.

The effect of children on housing is probably most surprising. Exhibit A-3 shows an increase in budget share for housing between a childless couple and a couple with one child (i.e., an increase from 37.9 to 41.2 percent; then it stays at about 41 percent for couples with two and three children). This observed relationship, however, could be an artifact of the way the BLS defines housing purchases to include household operations that reflect the cost of babysitting and child-care services. Exhibit A-4 presents a further breakdown of the housing component into its four components of housing: cost of shelter (e.g., rent or mortgage, home insurance, property taxes, and home maintenance); utilities; the cost of household operations (e.g., maids, gardeners, childcare); and household equipment (e.g., furniture, decorations, and cooking equipment). As anticipated, the largest difference between families with and without children is in the household

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[6] Top-coded values of net incomes were excluded from the calculations. Income is sometimes top-coded for extraordinary high incomes to preserve anonymity of high-income households. "Top-coded income" refers to the replacement of data in cases where the original value exceeds a critical income amount.

[7] The average propensity to consume was computed as the ratio of average outlays to net income, not the average of the ratio of outlays to net income. If the average of the ratio of outlays to net income is computed, the respective estimates would be roughly five percentage points higher owing to the fact that low-income families typically spend more than their income, resulting in a ratio exceeding 1.

operation segment of housing. Otherwise, the spending on housing for families with and without children is similar.

Exhibit A-3. Average Spending by Family Composition

	Childless Couple	One Child	Two Children	Three or More Children
Total outlays	$51,428	$55,968	$59,096	$49,491
Budget share (% of total outlays)				
Housing	37.9%	41.2%	41.4%	40.9%
Transportation	20.3	19.9	19.0	18.4
Food	15.7	16.0	16.8	18.3
Entertainment	7.2	6.4	6.8	6.3
Health care	6.1	5.3	5.3	4.6
Apparel	2.6	3.1	3.2	3.6
Tobacco and alcohol	2.0	1.4	1.2	1.1
Education and reading	1.9	1.8	1.7	1.7
Personal care	0.7	0.6	0.6	0.5
All other	5.6	4.3	4.0	4.6

Source: Calculations by author.

Exhibit A-4. Allocation of Housing Purchases

	Childless Couple	One Child	Two Children	Three or More Children
Budget share (% of total outlays)				
Housing	37.9%	41.2%	41.4%	40.9%
Shelter	25.2	27.2	27.1	26.7
Utilities	8.5	8.4	8.3	8.9
Household operations	1.1	2.8	3.3	2.6
Household equipment	3.0	2.7	2.7	2.7
Percentage of housing outlays				
Shelter	66.5	66.1	65.5	65.3
Utilities	22.5	20.4	20.0	21.7
Household operations	3.0	6.8	8.0	6.4
Household equipment	7.9	6.6	6.5	6.6

Source: Calculations by author (percentages may not total 100% due to rounding).

The exhibits illustrate the difficulty encountered when one attempts to measure child-rearing expenditures by directly allocating consumption spending to adults and children, such as the

USDA does.[8] As evident in Exhibit A-3, consumption items where it is fairly obvious for whom the purchase was made account for a rather small proportion of all outlays. While adult clothing, alcohol, and tobacco purchases can safely be identified as adult purchases and child clothing, child care, toys, and education might be classified as child purchases, Exhibit A-3 shows that these items would constitute roughly 15 percent of total outlays. The remaining 85 percent of the family's budget would have to be allocated using additional information or assumptions. For food, the USDA approach assumes that food purchases are allocated in proportion to the nutritional requirements of individual family members by age and gender. Using data from the Department of Transportation, the USDA approach first deducts an amount to reflect work-related expenses and then allocates the remainder to the children on a per capita basis. Using data from the Department of Health and Human Services, the USDA approach allocates health-care expenditures in proportion to the expected outlays for children relative to the expected outlays for the family.

Until its 2008 estimates, the USDA approach allocated the remaining consumption items including housing (excluding child care) on a per capita basis. This meant that roughly one-half of the family's outlays were assumed to be allocated to children on a per capita basis. For example, if there are two children in a four-person family, then 50 percent of outlays would be allocated to the children's consumption. This assumption resulted in estimates of the cost of children that were only slightly lower than those calculated on a per capita basis. In its most recent report, the USDA changed its methodology with respect to shelter, utility, and household equipment (furniture) outlays by adopting a "marginal cost" approach. Expressed simply, their current approach is to determine how these housing expenses vary by the number of bedrooms; then it assigns the impact of an additional bedroom to the cost of a child. The new USDA approach also includes an amount toward mortgage principal, whereas its previous methodology did not. While this is a significant departure from their previous methodology, the USDA admits that this approach is a "conservative" one that may actually understate the housing costs that parents may incur when they have children. In the 2009 report, the USDA reports that as a percentage of total spending, parents allocate 27 percent of the family's spending to one child, 40 percent for two children, and 47 percent for three children. This differs little from the amounts in the 2003 USDA report that relied on a per capita allocation of housing. In the 2003 USDA report, the percentage of family expenditures devoted to child rearing were 26 percent, 42 percent, and 48 percent for one, two, and three children, respectively.

Alternative Methodologies for Allocating Family Expenditures to Children

Many of the alternative methodologies for allocating family expenditures to children rely on assumptions that can be even more daunting than the ones employed by the USDA. In this

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[8] Lino & Carlson, *supra* note 20.

section, two competing methodologies used to allocate total family spending to the children are described. The discussion in the body of the report is intended to be nontechnical. The equations presented in the body of the report can be skipped without a loss of general understanding of each approach. Appendixes A-4 and A-5 contain a more technical discussion of these methods.

Indirect Estimates—Engel Method

While the approach taken by the USDA is straightforward and relatively easy to understand, its main weakness is the rather arbitrary manner in which it allocates the family's spending. The use of assumptions that rely on per capita allocations of goods may overstate how much parents truly spend on their children; however, without any other additional information that informs us about how individual members consume or utilize the specific consumption items, what alternative assumptions can be made?

An alternative approach to the allocation problem would be to focus on how parents reallocate consumption within the household in order to make room for their children's consumption. By comparing the consumption decisions of parents with children and married couples without children, the economic costs of the children can be indirectly observed from the differences in consumption patterns. When undertaking this comparison between families with and without children, one should hold everything else constant in the comparison to ensure that any remaining differences can reasonably be attributed to the presence of the children. Some of the factors that should be held constant include the characteristics of the adults, the market prices that families face, and the standard of living or the economic well-being that the two families experience.

The difficulty with this approach is finding a suitable measure of family economic well-being that is constant between the two sets of family. The search for an economic proxy for the family's standard of living has been difficult and not wholly successful. The use of income or even total expenditures in the family are unacceptable measures of a family's well-being. Consider two families that have the same total expenditures or income, but one family has children while the other does not. These families could not possibly be equally well off since, at a minimum, the family with children would have more mouths to feed and more bodies to clothe and shelter.

In searching for a proxy for the family's standard of living, one expectation is that the concept could, in principle, be measured for all families. This restricts the search to goods that are necessities and hence are needed and purchased by all families. One core necessity is food. It was this consumption item that Engel focused on over 100 years ago as an appropriate proxy for a family's standard of living.[9]

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[9] Ernst Engel, "Die Lebenskosten Belgischer Arbeiter-Familien Früher and Jetzt." (1895) 9(1) *Internat. Statistical Bull.*, 1–124.

Being purchased by all families, however, is not a sufficient qualification for a good proxy for the family's standard of living. At a minimum, the proxy should move in the same direction as "known" changes in the family's standard of living. Engel observed that food consumption did indeed meet this additional consideration. A reasonable assumption is that, holding the number of family members constant, increases in the family's total expenditures should make the family better off. What Engel observed was that when total spending increased, the family spent more on food, but the share of food in the family's budget fell.

Comparing families with different numbers of members but the same level of total spending should also create differences in well-being across the families. The expectation is that as the number of family members increased, the family would be worse off. Thus, if food shares are truly an inverse proxy for the family's standard of living, then the budget share should rise with the number of children while holding the level of total spending constant. While the total level of spending was not exactly held constant, Exhibit A-3 shows that as the number of children increased, so too did the share of total spending that the family budget devoted to food.

These observations led Engel and many other researchers such as Espenshade[10] to adopt food shares as a (inverse) proxy for the family's standard of living. When the food share is used as the proxy, this approach is denoted as the Engel methodology. Food, however, is just one component of goods that could be deemed necessities. Housing, clothing, and medical care would fit the economic definition of a necessity. The share of the budget devoted to each of these expenditure categories falls with increased total spending of the family. Because of this, Watts(1977)[11] proposed proxies based on this wider set of consumption items other than food. This approach is denoted as the ISO-PROP method.

To illustrate how the Engel model would be implemented, economic data from the CE is first used to estimate a relationship between the food share as a function of total outlays and the number of children (or family size). Exhibit A-5 depicts the estimated relationship between the food share and total outlays for a childless couple (*Kid* = 0) and a family with one child (*Kid* = 1). The graph in Exhibit A-5 corresponds to the Engel assumptions. As total outlays increase, the food share declines. When total outlays are held constant, families with one child will devote a higher percentage of their outlays to food. This latter relationship is depicted by having the relationship for one child to be "above" the relationship for the childless couple at all levels of total spending.

To further illustrate the basis of the Engel method, assume that a family with one child has *TS3* in total outlays and spends *FS3* percentage of *TS3* on food. If the equal food shares are a measure of well-being across family types, then a childless couple with *TS2* amount of total spending

[10] Thomas J. Espenshade, *Investing in Children: New Estimates of Parental Expenditures* (Urban Inst. Press, 1984).
[11] Harold Watts, "The Iso-Prop Index: An Approach to the Determination of Differential Poverty Income Thresholds," in *Improving Economic Measures of Well-Being*, ed. Moon & Smolensky (Academic Press, 1977).

would be as well off as the family with one child and *TS3* of total spending. The difference in total spending, *TS3* minus *TS2*, represents the cost of the child to the parents. If the child was not present, then the one-child family could reduce their spending by the difference and still be as materially well off as they were without one child. Consequently, if the cost of the child corresponds to the amount of total spending the family devotes to the child, then the percentage of total spending devoted to the child would equal

$$\frac{TS\ 3 - TS\ 2}{TS\ 3}\ .$$

Exhibit A-5. The Engel Method
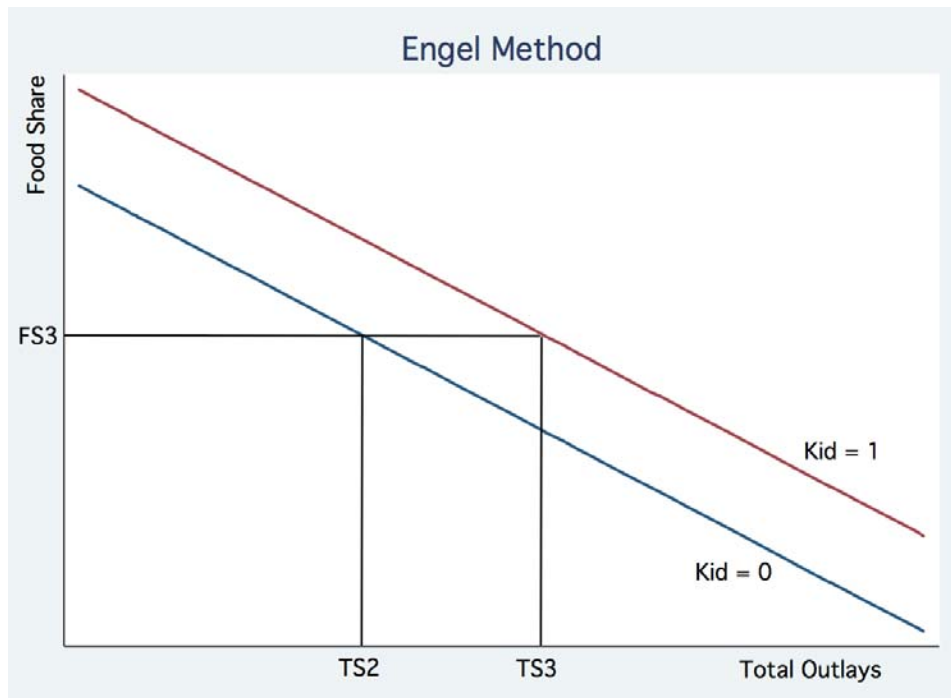
Indirect Estimates—Rothbarth Method

A second indirect methodology is the Rothbarth method.[12] Rothbarth suggested that by examining how adult goods varied by family type and total spending, one could infer how much total spending would be required to make families with and without children equally well off.[13] This approach is based on the observation that without any additional resources to the family, parents must make "room" for the consumption of their children by reducing purchases that they make for themselves. For the purposes of this study, expenditures on adult clothing are

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[12] See Appendix A-4 for a more theoretical justification of the Rothbarth approach and a critique.
[13] Erwin Rothbarth, "Note on a Method of Determining Equivalent Income for Families of Different Composition," in *War-Time Pattern of Saving and Spending,* ed. Madge, Occasional Paper No. 4 (Cambridge Univ. Press, 1943).

considered as a proxy for adult spending. If Rothbarth is correct, then spending on adult clothing would fall as the number of children increases. This pattern exists in the CE data used for this analysis; specifically, couples without children spend on average $2,251 on adult clothing, while parents with one, two, and three or more children spend $1,787, $1,541, and $1,352 respectively.

To implement the Rothbarth approach, data from the CE are used to determine the relationship between spending on adult goods (adult clothing) as a function of total outlays and the number of children in the family. Exhibit A-6 depicts the relationship between spending on adult goods and total spending for childless couples and families with one child. If adult goods are normal goods for families, then as total spending increases, so too will spending on adult goods (i.e., both relationships are upward sloping). If, as Rothbarth suggested, parents reduce their spending on adult goods to make room for spending on children, then, with total spending held constant, the relationship for childless couples should lie above that of the relationship for families with one child, indicating that the presence of children should reduce spending on adult goods.

Again, consider a family with one child who has *TS3* dollars in total spending. It would be predicted to spend *AG3* dollars on adult goods. Note that the level of spending on adult goods is determined by starting on the horizontal axis at *TS3* and then "going up" to the estimated relationship for families with one child (*Kid* = 1) and across to *AG3*. The Rothbarth approach would determine the level of total spending that the equally well-off childless couple would require by asking what the level of total spending is for a childless couple such that they would spend *AG3* on adult goods. Just as in the Engel method, the difference between *TS3* and *TS2* would be identified as the cost of the child and used identically to determine the percentage of the family's spending, *TS3*, that was allocated to the child.

Exhibit A-6. The Rothbarth Method

Rothbarth Method

Critique of Engel and Rothbarth Methodologies
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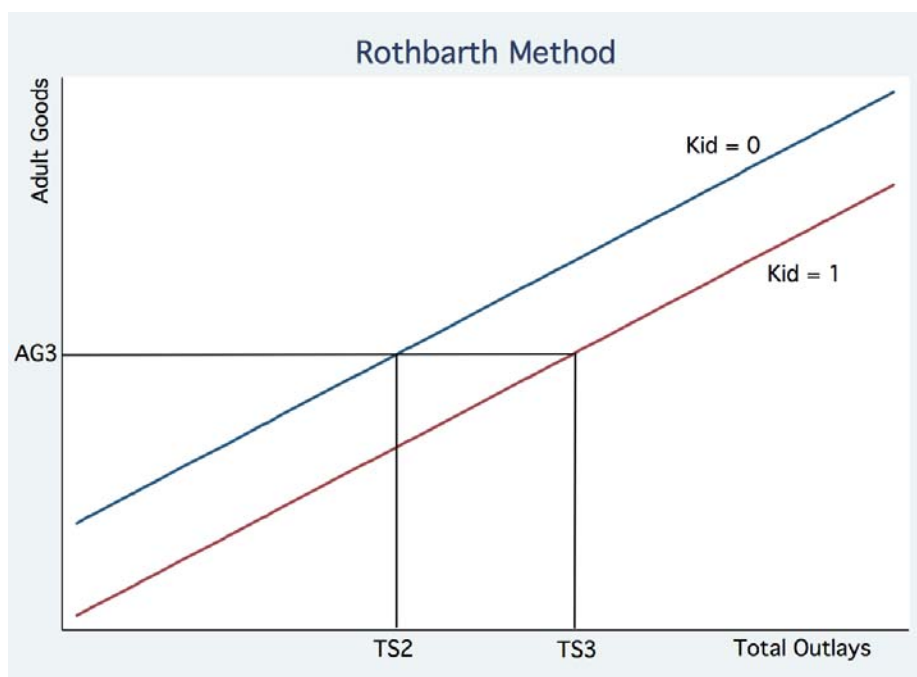
Critique of Engel and Rothbarth Methodologies

Although most state guidelines were originally based on the 1984 Engel estimates produced by Espenshade,[14] subsequent research questioned the Engel approach.[15] While Appendix A-5 elaborates on the problems in the Engel method, it suffices to note here that there is growing dissatisfaction with it. While the assumptions of the Engel methodology are consistent with the empirical data, Deaton and Paxson have proposed additional tests of whether food shares are truly a proxy for the family's standard of living. In this study, the data on food shares fail to pass these tests. A second concern pertains to the stability of the Engel estimates over time. After Espenshade's first set of Engel estimates, subsequent Engel estimates first increased and have since declined. The most recent estimates are at a level that is even below that of the original Espenshade estimates. This pattern of estimates over time stands in stark contrast to the relative stability of other estimators of child-rearing expenditures. In previous studies, I have estimated both the Engel and Rothbarth estimates; however, for the purposes of the present study, I will focus on the approach that has a solid theoretical basis and has shown stability over time—that is, the Rothbarth estimator.

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[14] Espenshade, *supra* note 14.
[15] Angus Deaton & John Muellbauer, "On Measuring Child Costs" (1986) 94(2) *J. Political Economy* 720–744; Angus Deaton & Christina Paxson, "Economies of Scale, Household Size, and the Demand for Food" (1998) 106 (5) *J. Political Economy* 897–930.

Empirical Implementation of the Rothbarth Model

The following functional form is used to describe the spending patterns of families on adult clothing.[16]

$$ln\left(A[K,TS,X]\right) = \mu(X) + \tau ln(2+K) + \lambda ln\left(\frac{TS}{2+K}\right)$$

In the equation, A denotes the dollar purchases of adult clothing; TS is the total outlays in the family; and $\mu(X)$ is a set of characteristics of the adults in the family and other control variables. For adult goods to be a proxy for the family's well-being, increases in total spending should increase spending on adult goods ($\lambda > 0$). As additional children join the family, with total spending held constant, adult spending (well-being) should decline. This latter condition requires that

$$(\tau - \lambda)ln(2+k) < 0 \quad or \quad \tau < \lambda.$$

Ignoring the impact that the relative age composition has on adult clothing purchases, this restriction will be met if τ is less than λ. This condition does not require τ to be negative.

The first step in the Rothbarth method is to calculate the level of total spending that a childless couple would require so that the couple would spend the same amount on clothing as do the parents with K children and TS_K amount of total spending. For the above functional form, this level of total spending would be equal to

$$TS_O = TS_K \times \left(\frac{2}{2+K}\right)^{1-\frac{\tau}{\lambda}}.$$

Attributing the difference in total spending as the amount of spending that the parents devote to their children, then the share of total spending that was devoted to the children would be equal to

$$\frac{TS_K - TS_0}{TS_K} = 1 - \left(\frac{2}{2+K}\right)^{1-\frac{\tau}{\lambda}}. \tag{2}$$

If $\tau < \lambda$ (with total outlays held constant and assuming that additional children lower spending on adult goods), then the estimated percentage of total spending devoted to the children will be less than their per capita share (33 percent, 50 percent, and 60 percent for one, two, and three children respectively).

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[16] Appendix A-6 contains a discussion of alternative functional form assumptions that could be made and reasons this functional form was chosen.

While the Rothbarth method is consistent with consumer demand theory, economists also know that the cost estimate of children it calculates will always underestimate the "true" cost of the children.[17] For the Rothbarth estimates to accurately reflect the cost of children, the family's decision about spending on adult goods must not be influenced by changes in relative prices of goods. If the family is unresponsive to changes in relative prices when deciding how much to spend on adult goods, the reduction in spending on adult goods when the number of children increases reflects purely a "real income" effect.

To empirically implement the Rothbarth approach, the following variables were used in the estimation of equation 1:

$\mu(X)$ variables:

> *black* = 1 if the race of the reference person is black, 0 otherwise
> *hnohs* = 1 if the husband doesn't have a high school degree, 0 otherwise
> *hcollege* = 1 if the husband has a four-year college degree, 0 otherwise
> *wnohs* = 1 if the wife does not have a high school degree, 0 otherwise
> *wcollege* = 1 if the wife has a four-year college degree, 0 otherwise
> *ww_wife* = the number of weeks worked in the past year by the wife (range 0 to 52)
> *wfulltime* = 1 if the wife worked more than 30 hours per week, 0 otherwise
> *bothwork* = 1 if both the husband and wife worked in the previous year, 0 otherwise
> *ne* = 1 if the consumer unit lived in the Northeast census region, 0 otherwise
> *south* = 1 if the consumer unit lived in the Southern census region, 0 otherwise
> *west* = 1 if the consumer unit lived in the Western census region, 0 otherwise
> *lnfsize* = log of family size $(2 + K)$
> *lnpctout* = the log of total expenditures divided by family size (in \$1,000)
> *lnpctout2* = the square of *lnpctout*

The inclusion of the square of per capita total family expenditures allows the share of total spending devoted to the children to vary with the level of total spending. In the previous discussion, this variable was omitted in order to derive explicit equations for the share of total spending devoted to the children. Including this squared term requires other numerical techniques to determine the amount of compensation needed to equate the well-being of families with and without children.

While all of the spending variables were indexed, a series of dummy variables based on the year in which the last interview for the consumer unit was conducted are included. They are:

> *y2004* = 1 if the last interview was conducted in 2004, 0 otherwise
> *y2005* = 1 if the last interview was conducted in 2005, 0 otherwise
> *y2007* = 1 if the last interview was conducted in 2007, 0 otherwise

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[17] For the "true" cost to be estimated, the family's underlying preferences (utility function) must be known, which, of course, will never be known.

y2008 = 1 if the last interview was conducted in 2008 or 2009, 0 otherwise

where the omitted group was those units whose last interview was conducted in 2006.

To control for the number of interviews that were completed by the consumer unit, three dummy variables in the analysis were included based on the following form:

complete3 = 1 if the unit completed only three interviews, 0 otherwise

where the omitted group was those units that had completed all four interviews.

The dependent variable in the Rothbarth approach is the log of the adult clothing purchases in constant 2006 dollars.[18] Families with no reported purchases of adult clothing had to be excluded from the analysis sample (267 observations were dropped). The weighted Ordinary Least Squares estimates of the adult clothing relationship (equation 1) appear in Exhibit A-7.

Exhibit A-7. Rothbarth Model Results

```
    Source |       SS       df       MS              Number of obs =     7579
-----------+------------------------------           F( 19,  7559) =   232.43
     Model | 4084.65629     19   214.98191           Prob > F      =   0.0000
  Residual | 6991.54169   7559  .924929447           R-squared     =   0.3688
-----------+------------------------------           Adj R-squared =   0.3672
     Total |  11076.198   7578  1.46162549           Root MSE      =   .96173


------------------------------------------------------------------------------
   lnagood |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-----------+------------------------------------------------------------------
    lnfsize |   .4293322   .0369313    11.63   0.000     .3569366    .5017278
  lnpctout1 |   .9962632   .1207601     8.25   0.000     .7595397    1.232987
 lnpctout12 |   .0449366    .020645     2.18   0.030     .0044667    .0854064
      black |   .1295601   .0453639     2.86   0.004     .0406343     .218486
      hnohs |   .1269009   .0442544     2.87   0.004       .04015    .2136517
   hcollege |   .1237327   .0279765     4.42   0.000      .068891    .1785744
      wnohs |   .0452611   .0487977     0.93   0.354    -.0503959    .1409182
   wcollege |   .0915449   .0273338     3.35   0.001     .0379631    .1451267
    ww_wife |  -.0102423   .0461714    -0.22   0.824     -.100751    .0802664
  wfulltime |  -.0096063    .031322    -0.31   0.759    -.0710062    .0517936
   bothwork |   .1093594   .0398644     2.74   0.006     .0312141    .1875048
         ne |   .0427151   .0350891     1.22   0.224    -.0260693    .1114994
      south |  -.0391932   .0292822    -1.34   0.181    -.0965944    .0182081
       west |   .0224001   .0323085     0.69   0.488    -.0409335    .0857337
      y2004 |   .0832341   .0436156     1.91   0.056    -.0022647    .1687328
      y2005 |   .0207813   .0362874     0.57   0.567    -.0503521    .0919146
      y2007 |  -.0256344   .0339436    -0.76   0.450    -.0921732    .0409045
      y2008 |  -.1509726   .0312618    -4.83   0.000    -.2122544   -.0896907
  complete3 |  -.0447752   .0249432    -1.80   0.073    -.0936707    .0041204
      _cons |  -4.228847   .1919546   -22.03   0.000    -4.605131   -3.852562
------------------------------------------------------------------------------
```

The Rothbarth approach is based on the assumption that when family size is held constant, spending on adult goods will increase as total spending increases. The Rothbarth method also requires that as the family size increases (i.e., the number of children rises) the adults will reduce their spending on adult clothing. Exhibit A-8 displays the expected amount of spending on adult

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[18] See Appendix A-3 for a description of the adjustment made to reported adult clothing to account for the fact that the BLS includes clothing purchases for 16- and 17-year-olds as adult purchases.

clothing for childless couples and families with children.[19] As required by the Rothbarth approach, spending does fall as the number of children increases.

Exhibit A-8. Predicted Expenditures on Adult Clothing as a Function of Total Outlays (in $1,000) for Childless Couples and Families With Children
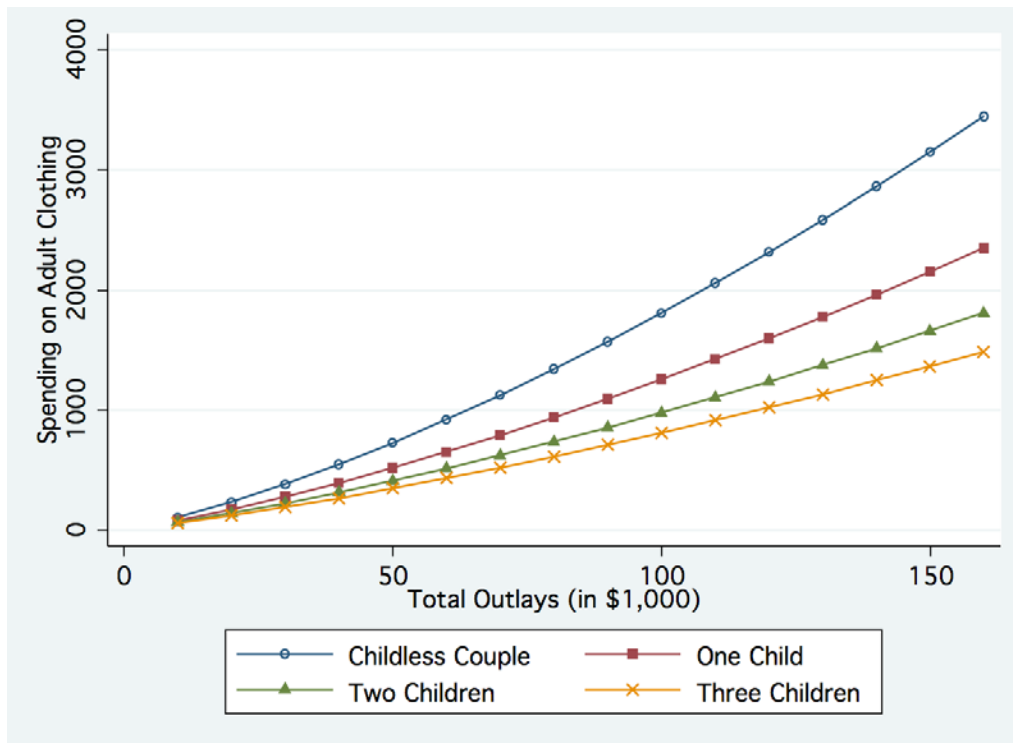
Rothbarth Estimates of Parental Spending on Children

Using the regression estimates of the adult clothing equation (Exhibit A-7), estimates of the share of family spending devoted to the children can be computed for different numbers of children as well as for specific levels of total spending. The Rothbarth method utilizing data from 2004 to 2009 yielded 23.5 percent, 36.5 percent, and 44.9 percent as point estimates of the average share of spending devoted to one, two, and three children, respectively, when total spending in the family is $55,000 (roughly average spending in the analysis sample). This section will first compare these estimates to previous estimates and then will examine how the estimates of the cost of children vary by level of total spending.

Comparing the Current Estimates to Previous Estimates
One of the earliest estimates of the cost of children was based on the 1972–1973 CE data. Espenshade's estimates of the cost of children using the Engel method published in 1986 were

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[19] The figure has been constructed to reflect a couple living in the Midwest where both adults have a high school education and only the husband works.

used by many states to construct their initial child support guidelines in response to the federal requirements set out in the 1988 Family Support Act.[20] For families with average levels of total spending, his estimates were that 24 percent, 41 percent, and 51 percent of the family's total spending was devoted to one, two, and three children, respectively. Employing the same CE data but with the Rothbarth approach, an earlier study (Lazear and Michael 1988) produced estimates of the share of total spending of 19 percent, 31 percent, and 39 percent of total spending.[21] These estimates were considerably lower than the Espenshade estimates and implied more economies of scale in consumption.

The 1988 Family Support Act not only required states to adopt child support guidelines but also directed the U.S. Department of Health and Human Services to conduct research on economic estimates of the cost of raising children. My 1990 study on the cost of raising children represented the department's response to this directive.[22] In this study, I estimated the Engel and Rothbarth models (as well as numerous other approaches) using the CE data from 1980 to 1986. This analysis showed that the Engel approach (33 percent, 49 percent, and 59 percent) was almost identical to a per capita allocation. On the other hand, the Rothbarth approach produced significantly lower estimates (24 percent, 34 percent, and 39 percent) than the Engel but higher than the Lazear and Michael estimates. Compared to Espenshade's estimates, while the estimates for one child were identical, my Rothbarth estimates for two and three children were considerably lower and much closer to the Lazear and Michael's Rothbarth estimates. The largest difference between the Rothbarth estimates was for the first child.

In 2000, I replicated my 1990 study using data drawn from the 1996–1998 CE data (first-quarter 1996 through first-quarter 1998). Compared to the 1990 estimates, the Engel estimates (30 percent, 44 percent, and 52 percent for one, two, and three children respectively) showed economies of scale that were absent in the 1990 estimates but were still close to a per capita allocation. While the Engel estimates declined slightly, the 2000 Rothbarth estimates showed a slight increase (26 percent, 36 percent, and 42 percent) over the 1990 estimates.

In 2006, I produced a new set of Rothbarth estimates using data from 1998–2003 CE. The estimated Rothbarth percentages were 26 percent, 37 percent, and 44 percent for one, two, and three children, respectively. While the estimates for one child remained constant, there was a slight increase in the spending shares for two and three children. For this study, I did not produce estimates based on the Engel approach. However, a group of researchers at Florida State University produced a set of Engel estimates using data from the 1998–2001 CE.[23] Their estimates of the share of total spending devoted to children were 22 percent, 38 percent, and 53 percent for one, two, and three children respectively. While the Florida State team employed

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[20] (Espenshade, *supra* note 14**.**

[21] Edward Lazear & Robert T. Michael, *Allocation of Income within the Family* (Univ. of Chicago Press, 1988).

[22] David M. Betson, *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey* (U.S. Dept. of Health & Human Services, 1990),Univ. of Wisconsin, Inst. for Research on Poverty.

[23] McCaleb et al., *supra* note 19**,** Thomas S. McCaleb, David A. Macpherson & Stefan C. Norrbin¸ *Review and Update of Florida's Child Support Guidelines* (Florida Leg., Nov. 2008).

different estimation strategies than I did in my studies, the Engel estimates that they produced were significantly lower than my 2000 Engel estimates for one and two children while estimating roughly the same cost for three children. The release of the Florida State study represents the first instance when an Engel estimate (for one child) was less than the corresponding Rothbarth estimate (i.e., my 2006 Rothbarth estimates). A limitation to this comparison, however, is a slight variation in the time period considered in the studies. My Rothbarth estimates encompassed the same time period as the Florida State study as well as a few years of data beyond what the Florida State study included.

Given the standard errors of the estimates of the cost of children (roughly 2 to 3 percentage points based on earlier studies), the difference between the Engel and Rothbarth estimates for one child is not statistically significant. The only statistically significant difference is that for three children (53 percent versus 44 percent). However, the empirical outcome where the Engel estimate is less than the Rothbarth estimate is troubling. It conflicts with a long-standing belief that the Engel approach will always lead to an overstatement of the true costs of children, while the Rothbarth will lead to understatement. For those using the estimates to gauge the adequacy of child support guidelines, this dominate belief has justified the use of the Engel and Rothbarth estimates to bracket the true cost of children. Historically, this belief has never been problematic because the empirical evidence was never to the contrary (i.e., earlier Engel estimates were less than earlier Rothbarth estimates); however, now that the most recent estimates indicate that the upper bound (Engel) is below the lower bound (Rothbarth), it is problematic.

The origin of the "bracketing" thesis was from the paper by Deaton and Muellbauer (1986).[24] Assuming the family made a choice between only two goods (i.e., food and all other goods), Deaton and Muellbauer argued that because economists are never able to directly measure a family's well-being, both approaches would be approximations of the true cost of children. Given the assumption of two goods, where Engel would be based upon food consumption and the Rothbarth would be based on all other goods, they showed that the Engel method would overstate the Rothbarth would understate the true cost of children. By implication, the Engel could never be less than the Rothbarth. While the authors noted that the limitation of their analysis was that it was based on the two-commodity good assumption, many researchers, based upon the empirical estimates, began to generalize the Deaton and Muellbauer result to all situations regardless of the number of goods available for household consumption. Appendix A-5 offers a more detailed critique of the Engel approach and offers an example that demonstrates that when there are three goods, it is quite possible for the Engel not only to be less than the true cost of the children but also less than the Rothbarth estimates. The constructed example is also consistent with the general historical trend in child cost estimates. While the Rothbarth estimates are slightly increasing, the Engel estimates are drastically falling. The conclusion reached in Appendix A-5 is that the Engel model has no theoretical basis and is an ad hoc procedure. As such, there is no reason for it to be well behaved nor trusted to provide evidence of the cost of

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[24] Deaton & Muellbauer, *supra* note 230.

children. It was for these reasons that I decided not to continue to produce Engel estimates in 2006. But, when pressed to offer Engel estimates, I am sure to warn economists and policymakers of its lack of theoretical foundation and its potential problems.

In 2008, the Florida State team released a second set of Engel estimates using the 2004–2006 CE.[25] While the Florida State team does not report the estimated share of total spending devoted to children, I have taken Florida State's regression model estimates and computed the implicit percentages.[26] Based on Florida State's regression estimates, their Engel estimates were 17 percent, 29 percent, and 35 percent for one, two, and three children, respectively. Compared to my 2006 Rothbarth estimates, the Florida State Engel estimates are lower for each number of children.

The last set of estimates considered in the comparison is the estimates I produced for this study. Earlier, I reported that the Rothbarth estimates using the 2004–2009 CE data were, respectively, 24 percent, 37 percent, and 45 percent for one, two, and three children. While not significantly different from previous Rothbarth estimates using data from 1980 to the present, they are significantly larger than the 2008 Florida State Engel estimates. To investigate whether differences in data sets were responsible for this reversal in estimates, I estimated an Engel model using the data for this study. Without going into the details of the estimation, I will note that the only real difference between the Engel and Rothbarth models is the dependent variable in the multivariate regression model. Instead of using the spending on adult goods (which is the basis of the Rothbarth model), the dependent variable in the Engel model is the logistic transformation of the share of total outlays spent on food at home. The Engel estimates that I produced are 21 percent, 33 percent, and 41 percent for one, two, and three children, respectively. These estimates suggest that it is not the choice of the sample but the method that is producing the results.

The next three exhibits (Exhibit A-9, A-10, and A-11) were constructed to facilitate a comparison of the USDA, Engel, and Rothbarth estimates over time. Exhibit A-9 depicts the historical record of estimates for one child, Exhibit A-10 depicts the historical record of estimates for two children, and Exhibit A-11 depicts the historical record for three children. Since all of the estimates consider multiple data years, each estimate is plotted at the midpoint of the data years. For example, the estimates from the current study used data from 2004 to 2009, so they were plotted for 2006. For comparative purposes, the graphs also include the per capita allocation for each number of children (33 percent, 50 percent, and 60 percent).

The trends in the three exhibits illustrate that the Rothbarth estimates are relatively stable over time while the Engel estimates are relatively unstable over time. Specifically, since the Rothbarth trend line is fairly straight, it is more stable. In contrast, because the Engel trend line fluctuates

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[25] McCaleb et al., *supra* note 19.
[26] The most recent USDA study reports percentages that purport to be from the 2008 study but in reality are the estimation results produced by a graduate student performing a sensitivity test using data from the 1998–2001 CE (the data used in the 2004 study).

up and down, it indicates instability. While my 1990 Engel estimates appear to be high relative to Espenshade's estimates and my 2000 Engel estimates, the differences in estimation procedures between Espenshade and my studies make it difficult to compare his estimates to my 1990 estimates.[27] The methods that I employed and those of the Florida State researchers are much more similar, and consequently the trend line could arguably start with my 1990 estimates. Starting at this point, the historical trends clearly indicate that the Engel estimates have been falling over time, while the Rothbarth estimates have been relatively stable, if not slightly increasing, for two and three children.

The ultimate question, however, is which trend line is the most reflective of actual child-rearing expenditures over time. Again, I argue in favor of the Rothbarth estimator over the Engel estimator. As noted earlier, Appendix A-4 constructs a theoretical justification for the Rothbarth methodology and demonstrates that the Rothbarth estimates will likely understate the true cost of children but will never overstate them; and Appendix A-5 demonstrates that because the Engel method does not have a theoretical basis, its properties are unusable. The Engel estimator could overstate or understate the true costs of the children. Its estimates could be greater, or less, than the Rothbarth estimates. In all, the relationship, if any, between the Engel estimator and the true costs of child rearing or the Rothbarth estimator cannot be determined other than to say the Engel estimator is unlikely to reflect the true costs of child rearing. For these reasons and others detailed in Appendix A-5, I cannot recommend using the Engel estimates as the basis of child support guidelines or for assessing the adequacy of child support guidelines. While I cannot purport that the Rothbarth is closer to actual child-rearing expenditures than other estimators, I have confidence in the Rothbarth approach because it does have a theoretical basis and is relatively stable over time.

In addition to tracking the Engel and Rothbarth estimates over time, the exhibits consider the USDA estimates over time. While the USDA annually publishes its estimates, in reality the estimates it releases are not produced anew each year but are updated by inflation adjustment. Consequently, the USDA percentage of total spending devoted to children will not change over time. These percentages will change only when the USDA re-estimates its model by referencing new CE data or changes its methodology as it did when it altered the treatment of housing in its 2008 estimates. With this caveat spelled out, however, the trend lines in the exhibits show that the USDA has always exceeded the Rothbarth estimates and was below the Engel estimates until recently.

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[27] Espenshade utilized a model that was linear in the food share and total spending, while I used a proportional effect model expressed in the log of food share and total spending. Appendix A-6 describes the differences this alternative functional form assumption implies for the estimation of the cost of children.

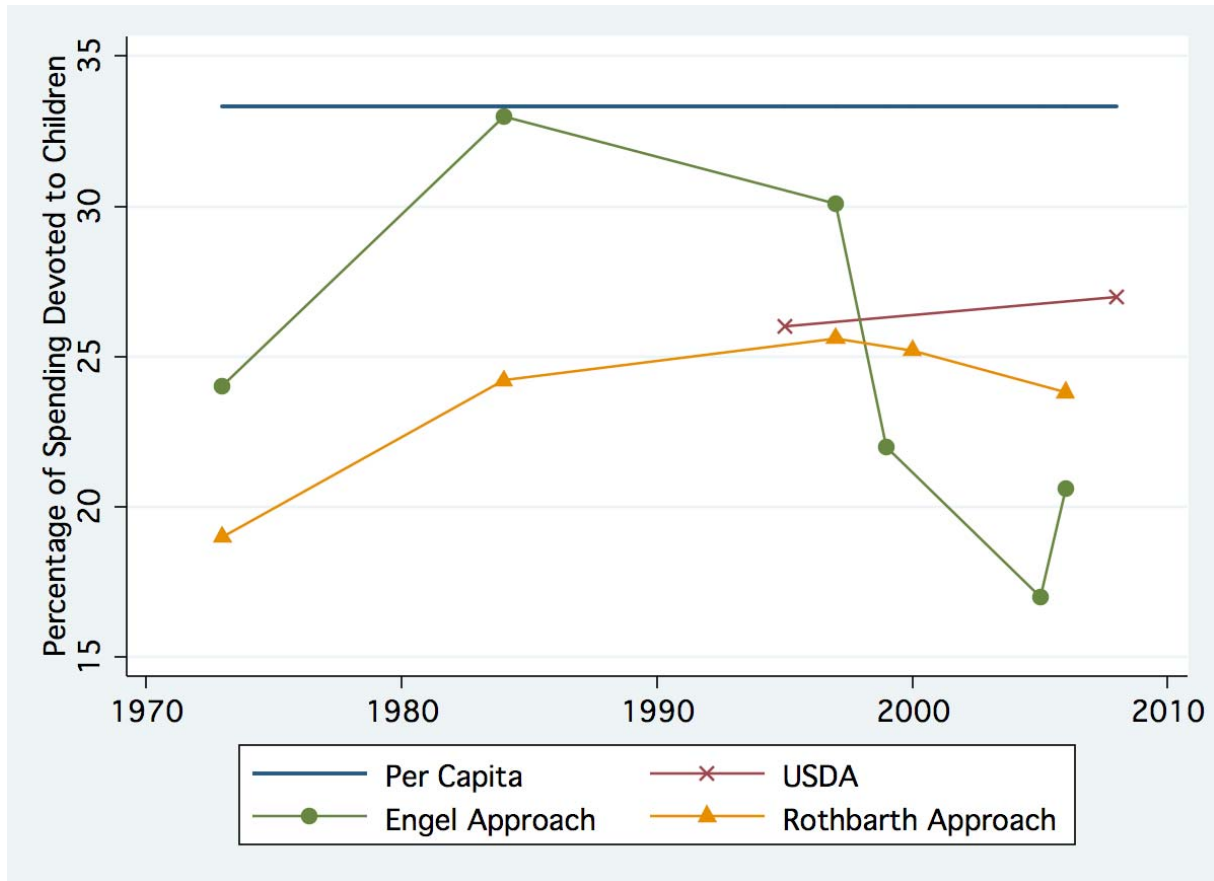**Exhibit A-9. Estimates of the Proportion of Spending: One Child**

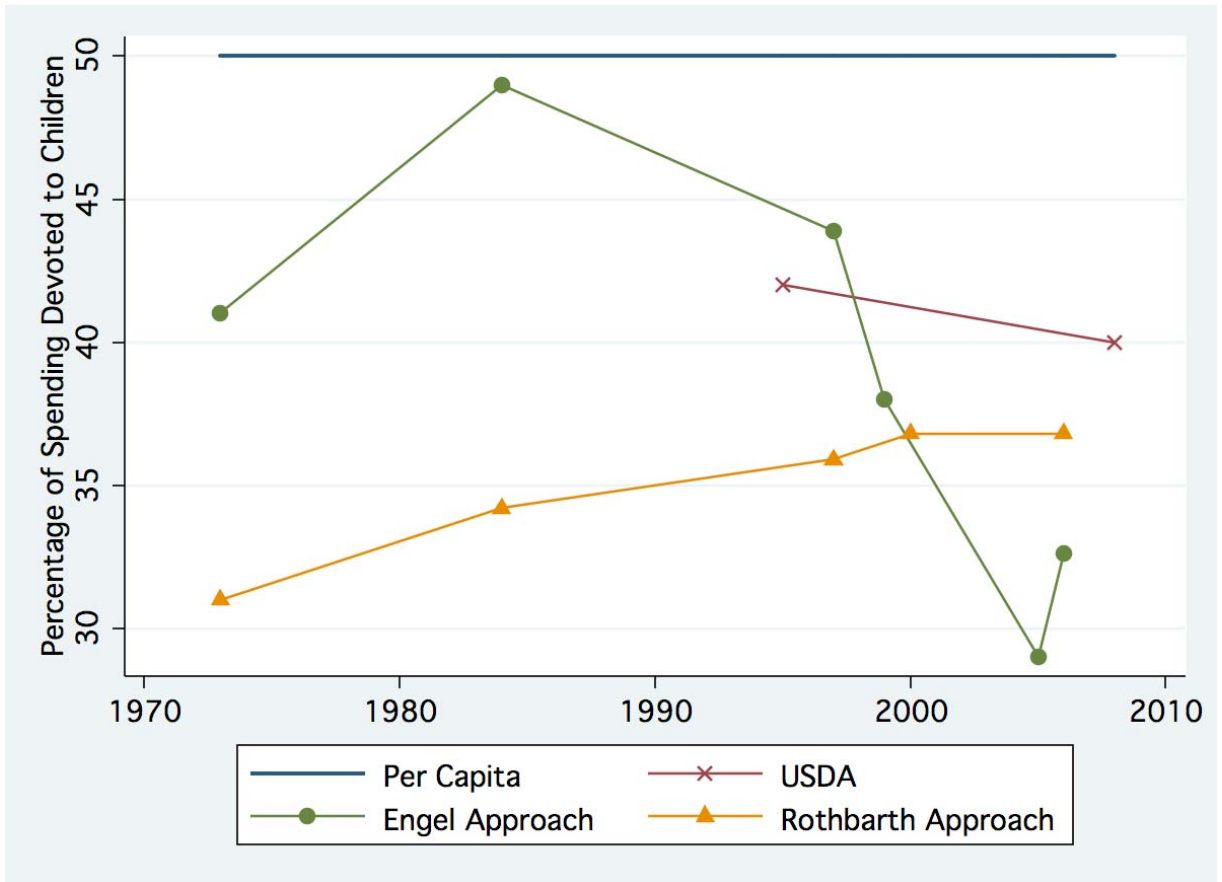**Exhibit A-10. Estimates of the Proportion of Spending: Two Children**

Exhibit A-11. Estimates of the Proportion of Spending: Three Children
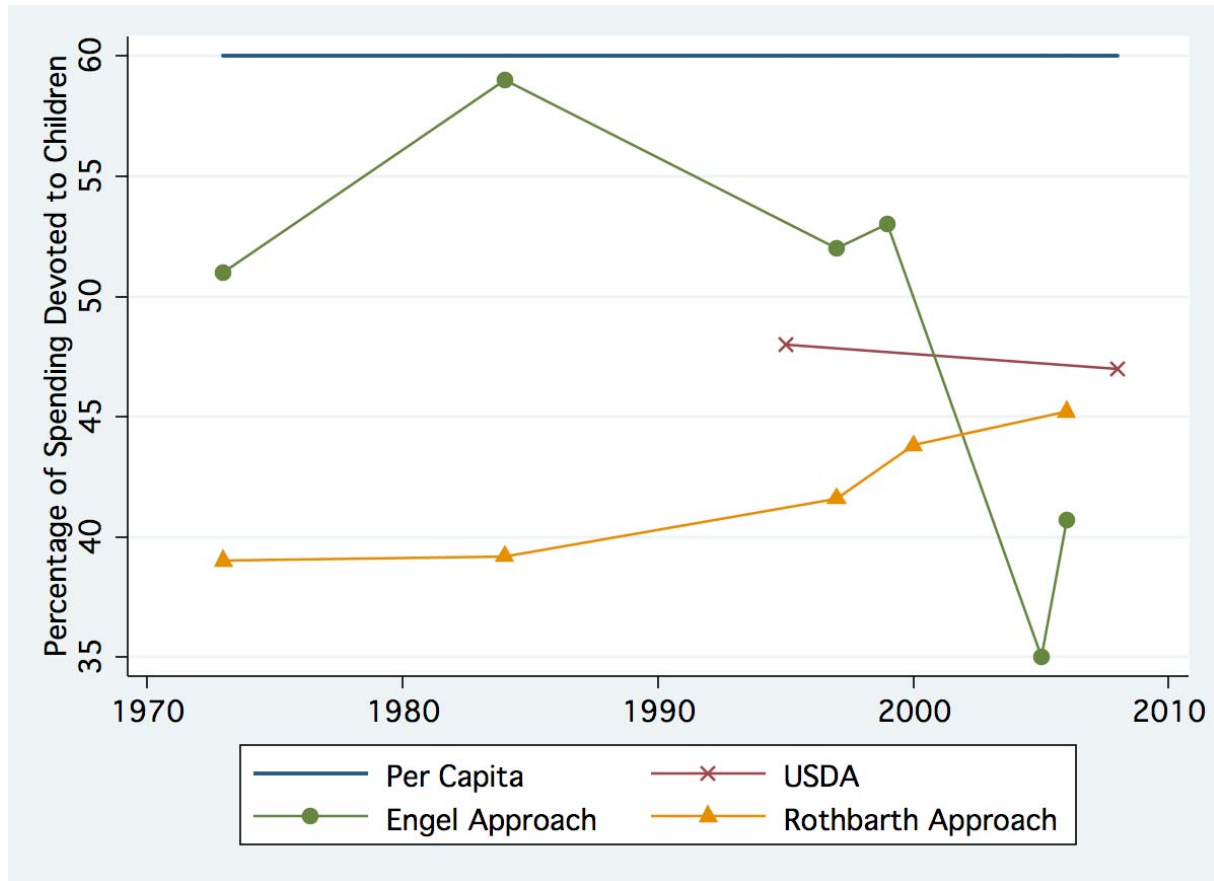
Marginal Cost of the Second and Third Child

Another consideration for the estimates of the cost of children is how families alter their allocation to the children if additional children are added to the family. For example, consider the situation where the family employs a per capita allocation. With one child, then, the family would allocate 33 percent of the family's spending to the child. If a second child were added, then a per capita allocation would imply that 50 percent of the family's spending would be devoted to the children. This infers that a family would spend 50 percent more on their children because of the presence of the second child (50 percent = 100 x (50 – 33.3)/33.3). If a third child is added, then 60 percent of the family's spending would be allocated to all three children and the marginal impact of the third child would be an additional 20 percent in spending. Exhibit A-12 presents the marginal costs of the second and third child for the various estimates.

Exhibit A-12. Additional Costs of the Second and Third Children

	Increase in Child Spending Due to:	
	Second Child	Third Child
Per Capita	50%	20%
USDA		
2009 Report	48	18
1995 Report	62	14
2004–2009 CE (Betson 2010)		
Engel	58	25
Rothbarth	55	23
2004–2006 CE (McCaleb et al. 2008)		
Engel	71	21
1998–2003 CE (Betson 2006)		
Rothbarth	46	19
1998–2001 CE (McCaleb et al. 2004)		
Engel	73	39
1996–1998 CE (Betson 2000)		
Engel	46	18
Rothbarth	40	16
1980–1986 CE (Betson 1990)		
Engel	48	20
Rothbarth	41	13
1972–1973 CE		
Engel (Espenshade 1986)	71	24
Rothbarth (Lazear & Michael 1988)	63	26

The Rothbarth and Engel estimates from the current study represent the first time that I have found the marginal cost of the second and third child to exceed marginal costs reflected in a per capita allocation. In all previous studies, the marginal cost of the second and third child were less than those implied by a per capita allocation. A relatively high marginal cost for the second child may reflect "high" estimates for two children or "low" estimates for the first child. When my

2006 Rothbarth estimates are compared with the Rothbarth estimates from the current study the difference between the cost of one child between the two studies (i.e., 25.2 percent in my 2006 study compared to 23.5 percent in this current study) is responsible for the increase in the marginal cost of the second child. In contrast, the differences in the levels for two and three children are roughly equal between the two studies (i.e., 36.8 and 36.5 percent for two children, respectively, in my 2006 and current studies; and, 43.8 and 44.9 percent for three children, respectively, in my 2006 and current studies).

Estimates by other researchers produce even higher marginal costs for the second and third child (especially for the second child) than my estimates. The sole exception to this observation is the current USDA estimates, which are more similar to my earlier estimates. Those earlier estimates implied marginal costs for a second and third child that are smaller than what is implied by a per capita approach.

Effect of Total Spending

The previous comparisons have focused on the "average family." The experience of any family will most likely depart from this hypothetical family for factors that are unobservable to the courts and other factors that are, indeed, observable. Other than the number of children, one factor that can easily be discerned is the income of the family. While income may be what the courts will examine, a more appropriate economic comparison is whether child-rearing expenditures vary with total family expenditures. That is, do families that spend more in general also spend proportionally more on their children? The focus on total expenditures rather than income obviates the need to address how tax consequences and household savings decisions affect total family expenditures. This section of the report will examine how parental spending on children differs by the family's level of total spending.

Exhibit A-13 presents the current Rothbarth estimate of percentage of total spending devoted to the children as a function of total outlays for one, two, and three children. This marks the first of my estimates in which the percentage of total outlays devoted to child rearing increases with total outlays. In all previous studies, I have found that the percentage of expenditures devoted to children declines with total spending. For example, Exhibit A-14 represents the Rothbarth estimates from my 2006 study as a function of the total outlays of the family.

Exhibit A-13. Current Rothbarth Estimates of Parental Sharing by Total Outlays (in $1,000) for One, Two, and Three Children
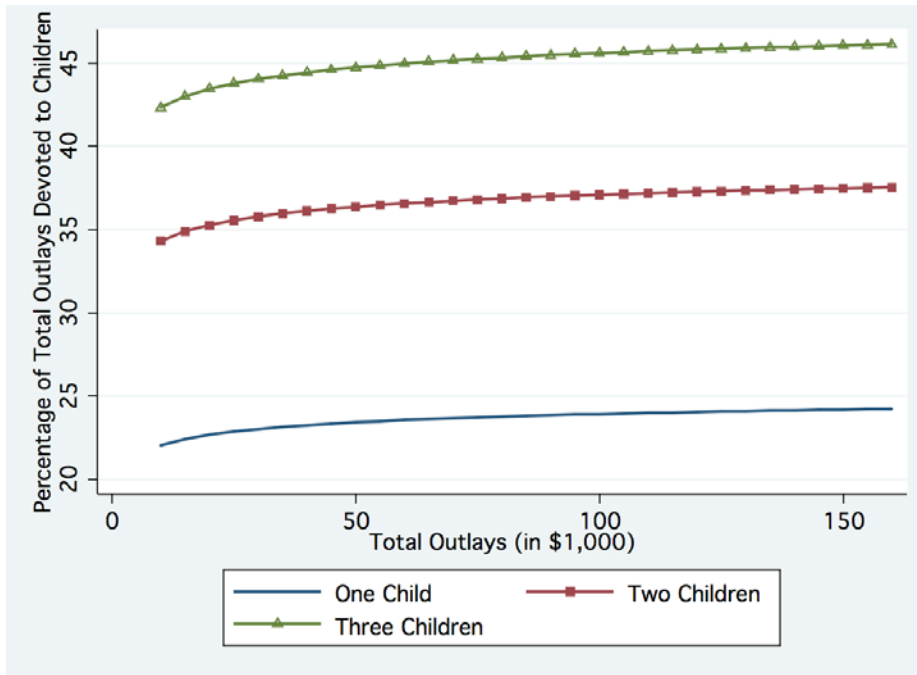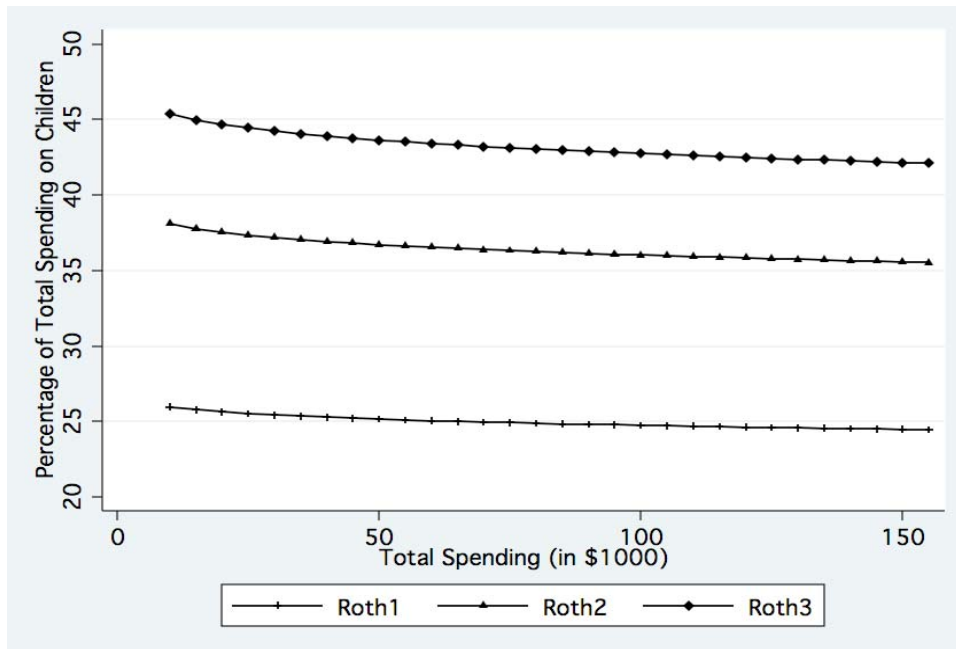

Exhibit A-14. 2006 Rothbarth Estimates of Parental Sharing by Total Outlays (in $1,000) for One, Two, and Three Children

In my 2006 study, I reported that over time the relationship between the cost of children and total spending had become "flatter," implying that all families, regardless of total spending, devoted roughly the same percentage of their spending to their children. While the upward trend has continued, I am not certain how much faith to place in the result, even though the increases are statistically significant. My caution is due to the fact that I cannot determine a reason for this result to occur. In my 2006 study, I put forth a possible explanation that was based on problems in estimating a nonlinear relationship between child spending and total outlays when the sample is limited in the range of total outlays. While it is possible that my previously provided explanation is true, I do not find it completely satisfying.

Another possible explanation may lie in the fact that the definition of total spending used in this study and the 2006 study differs from the previous definition used in other studies. In previous studies and the Florida State studies, the measure of total spending reflected the BLS definition of total expenditures, as opposed to outlays, used in this study. The primary difference between outlays (used in the current and 2006 studies) and expenditures is that outlays will reflect the family's principal payments toward all debt, while expenditures will not. Consequently, for families with debt that are paying off the principal, their level of total spending will be higher than it would have been had expenditures been used as the measure of total spending. When the Rothbarth model is reestimated using expenditures as a measure of the family's total spending, the result is that as family spending increases, the percentage of spending devoted to the children falls. The decline is statistically significant, although modest in comparison to the declines that I estimated in my 1990 study.

The general conclusion that can be reached from these comparisons is that estimates of spending on children in wealthier families (as indicated by families with high levels of total spending) has been rising relative to what estimates of previous studies would predict. While this could reflect a true increase in spending, the possibility that it is a statistical artifact reflecting sampling variability, extrapolating to levels of spending considerably away from the mean, or the nonlinearity of the relationship between spending on adult clothing and total spending cannot be ruled out. Although there is some evidence that high-income families are spending more on their children today than in the past, the evidence is not conclusive. The analysis prepared for this report indicates that families with high levels of spending are spending a higher percentage of their family's total spending on their children, but other analyses find that families with high levels of income are spending less of their disposable income today than in the past. Consequently, it is not completely clear whether high-income families are spending more or less today. For example, consider a high-income family who spent 55 percent of their disposable income and allocated 32 percent of their total spending on their two children. If the same family today were to spend 36 percent of their total spending on their two children, the family would have to spend 48.9 percent of their disposable income in order to spend the same dollar amount on their children.

Impact of Alternative Assumptions

So far the discussion has focused on the various methodologies used to measure child-rearing expenditures and the impact of one particular methodology over another on the estimated values. Other assumptions necessary for producing estimates could also affect the levels of the estimates. These other assumptions concern variable definition, functional form choices, and criteria used for inclusion of households in the analysis sample. This section examines the effect of six alternative assumptions on the estimates of the cost of children developed for this study.

To implement the Rothbarth model, I relied on family spending on adult clothing as a proxy for expenditures for adult goods. The CE definition of adult clothing could be problematic, however, because it includes purchases made for older children. The BLS aggregates all apparel expenditures for individuals 16 years and older as adult clothing. To adjust the data for this potential problem, I assigned a proportion of the reported adult clothing purchases to the parents where the proportion is equal to the number of parents (two) relative to the number of family members who were 16 years and older. For example, if the family had one child who was between 16 and 18 years old living in the family, then I would attribute two-thirds of the reported adult clothing to the parents and the remaining one-third to the older child. An alternative choice would be to use the reported purchases of adult clothing.

Another variable definition issue exists in the definition of total spending. As I have noted, I chose to utilize the BLS definition of total outlays minus social security taxes and payments to pension plans. One alternative is to use total expenditures minus social security taxes and payments to pension plans. The difference would be principal payments on debt. In short, the estimates developed for this study include principal payments in the definition of total spending, while the alternative is not to include them in the definition of total spending.

The next two alternative assumptions pertain to functional form. The model developed for this study estimates the effect of the log of family size and the log of per capita total outlays in order to estimate using the Rothbarth model. One alternative would be to estimate separate effects for each number of children by using dummy variables in lieu of using the log of family size. A second alternative would be to control for the log of total outlays instead of the log of per capita total spending. The rationale for examining these two alternatives is that the Florida State researchers employed both of these functional form choices rather than the assumption used for this study.

The final two alternatives relate to the construction of the sample. The Florida State researchers excluded families with top-coded reported incomes. (Top-coding is discussed in greater detail in Appendix A-2.) In this study, a similar exclusion was deemed unnecessary. Typically, observations with top-coded income are excluded when income is a key variable in the estimation; however, this study considered total outlays, not income. Further, top-coded income

does not necessarily imply top-coded outlays. A final point is that excluding families with top-coded reported incomes would significantly reduce the number of cases for analysis.

A second sample restriction that I have consistently employed in this study as well as previous studies is that families must have completed at least three surveys to be included in the study sample. The rationale is that measurement errors in the adult clothing and total spending variables are fewer if there are more data from the consumer. One alternative would be to consider families with four completed surveys; another alternative is to consider all families even if they participated in only one quarterly interview. The latter was explored in this analysis.

In all, 64 (= 2^6) variations of the Rothbarth models (as appeared in Exhibit A-7) were estimated by using different combinations of the six alternative assumptions described above. Exhibit A-7 contains the results from one of the 64 sets of estimates. For each set of estimates, I computed the percentage of total outlays devoted to one, two, and three children in a family with $55,000 of total outlays. To analyze the average effect of each of these six choices, I regressed the estimate of the cost of children on six dummy variables reflecting the choice being utilized to produce that estimate. The six dummy variables were:

ragood = 1 if reported adult clothing purchases is used, 0 if the adjusted purchases is used

expend = 1 if total expenditures is used for total spending, 0 if total outlays is used

kid = 1 if "kid" dummies are used to capture the effect of family size, 0 if log of family size is used

level = 1 if log of total spending is used, 0 if log of per capita total spending is used

topcode = 1 if consumer units with top-coded incomes are excluded, 0 if consumer units with top-coded incomes are included

useall = 1 if all consumer units are included, 0 if only consumer units with at least three completed surveys are included

Exhibit A-15 presents the results of this analysis for one, two, and three children separately.

Exhibit A-15. Impact on Alternative Assumptions on Estimates of the Costs of Children

One Child

```
      Source |       SS           df       MS              Number of obs =       64
-------------+------------------------------              F(  6,     57) =    97.49
       Model |  251.23105          6   41.8718416          Prob > F       =   0.0000
    Residual |   24.48183         57   .429505789          R-squared      =   0.9112
-------------+------------------------------              Adj R-squared =   0.9019
       Total |  275.71288         63   4.37639492          Root MSE       =   .65537

------------------------------------------------------------------------------
        cost |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
      ragood |  -3.521732   .1638417   -21.49   0.000    -3.84982    -3.193645
      expend |   1.31123    .1638417     8.00   0.000    .9831423    1.639317
         kid |  -.2792038   .1638417    -1.70   0.094    -.6072912    .0488836
       level |   .2356505   .1638417     1.44   0.156    -.0924369    .5637379
     topcode |   .1339871   .1638417     0.82   0.417    -.1941003    .4620745
      useall |   1.195233   .1638417     7.30   0.000    .8671452     1.52332
       _cons |   23.30416   .2167422   107.52   0.000    22.87014    23.73817
------------------------------------------------------------------------------
```

Two Children

```
      Source |       SS           df       MS              Number of obs =       64
-------------+------------------------------              F(  6,     57) =   570.48
       Model |  497.218703         6   82.8697839          Prob > F       =   0.0000
    Residual |  8.27998023        57   .145262811          R-squared      =   0.9836
-------------+------------------------------              Adj R-squared =   0.9819
       Total |  505.498683        63   8.02378863          Root MSE       =   .38113

------------------------------------------------------------------------------
        cost |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
      ragood |  -4.247313   .0952834   -44.58   0.000    -4.438115    -4.056511
      expend |   1.162604   .0952834    12.20   0.000    .9718021     1.353406
         kid |   .3404263   .0952834     3.57   0.001    .1496246      .531228
       level |   .099334    .0952834     1.04   0.302    -.0914677     .2901357
     topcode |  -.2217393   .0952834    -2.33   0.024    -.412541    -.0309376
      useall |   3.392628   .0952834    35.61   0.000    3.201827      3.58343
       _cons |   35.80947   .1260481   284.09   0.000    35.55706     36.06188
------------------------------------------------------------------------------
```

Three Children

```
  Source |       SS         df       MS              Number of obs =      64
-------------+------------------------------          F(  6,     57) =   528.67
       Model |  595.767984        6   99.2946641      Prob > F       =   0.0000
    Residual |  10.7057354       57   .187819919      R-squared      =   0.9823
-------------+------------------------------          Adj R-squared =   0.9805
       Total |  606.47372        63   9.62656698      Root MSE       =   .43338

------------------------------------------------------------------------------
        cost |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
      ragood |  -4.930283   .1083455   -45.51   0.000    -5.147242    -4.713325
      expend |   1.426803   .1083455    13.17   0.000    1.209845     1.643761
         kid |  -.2070438   .1083455    -1.91   0.061    -.4240019     .0099143
       level |  -.0236923   .1083455    -0.22   0.828    -.2406503     .1932658
     topcode |  -.2796465   .1083455    -2.58   0.012    -.4966046    -.0626884
      useall |   3.28183    .1083455    30.29   0.000    3.064872     3.498788
       _cons |   44.62514   .1433276   311.35   0.000    44.33814     44.91215
------------------------------------------------------------------------------
```

Source: Calculations by author.

The two alternative variable definitions (i.e., the definition of adult clothing and the definition of total expenditures) do have a substantive and significant impact on the estimates of the cost of children. The use of reported adult clothing purchases instead of some adjustment to reflect the presence of older children will attribute spending on older children to the adults. Consequentially, the alternative assumption (which does not adjust for some adult clothing being consumed by older children) reduces the estimates of spending on children. The estimates indicate that the effect is substantial and increases with the number of children. The latter makes sense because as the number of children increases, the probability of having older children should increase and so too the problem of using reported purchases.

The use of expenditures in lieu of outlays has a significant impact on the estimates. It increases the estimated cost but seems to be independent of the number of children. One possible explanation is that ignoring principal payments affects the estimates of child-rearing expenditures more so than total spending by the family.

The alternative functional form assumption to control for family size (i.e., dummy variables to represent the number of children instead of log of family size) does not have a substantive impact on the estimates, on average. The use of "kid" dummies, however, is significantly different, but the direction of the difference varies with respect to the number of children. For one and three children, the use of dummies, on average, lowers the cost estimates, while for two children it increases the cost estimates.

Excluding consumer units with top-coded incomes does not have a substantive impact on the estimates, but they are statistically significant for two and three children. The more interesting result concerns the impact of excluding consumer units if they have less than three completed interviews (i.e., the *useall* variable). As discussed earlier, the alternative assumption explored for this analysis was to include consumer units with at least one interview. For two and three children, the alternative assumption raises the cost estimates by roughly 3.3 percentage points. For one child, the effect is smaller (1.2 percentage points) but also significantly different from no effect.

With the exception of the use of adjusted adult clothing purchases, this analysis suggests that the assumptions used to derive the estimates in Exhibit A-7 effectively lower the estimates of parental spending on children.

Conclusions

In this report, I have examined alternative methods of determining the amount of parental spending on children. Each method has its strengths and its weaknesses. The USDA approach is direct and hence more transparent than either the Rothbarth or Engel method. However, with simplicity comes a reliance on assumptions that are certain to be wrong. The Rothbarth method requires other assumptions to identify how much more or less spending families of different

compositions need to maintain a given standard of living. The validity of the Rothbarth assumptions should also be questioned. Nevertheless, given the replication of these and their relative stability over time, both of these methods deserve attention.

Where does that leave policymakers who want to use estimates of child-rearing costs? I would argue that of the approaches that have been examined in this research, it is the Rothbarth method that is the least objectionable. While the assumptions needed to identify this approach are strong, there is no empirical evidence that the assumptions are wrong. Some might object to whether adult clothing, which constitutes less than 5 percent of a family's total spending, provides a reliable basis for estimating the cost of raising children, but given the precision to which the family's decision of how much clothing to purchase is affected by family size, composition, and total spending, the cost of children can also be estimated with a degree of precision comparable to other methods. The only significant problem with this approach lies not with method but with the data.

The findings presented in this report suggest that parental spending on children in families with average levels of spending has not significantly risen or declined since the 1980s. The only exceptions to this conclusion are the Rothbarth estimates for two and three children that have shown a steady increase over time. Given that the estimates for one child have not significantly been changing, these results suggest a loss in the economies of scale in consumption for the second and third children in the family.

A natural question to ask at this time is whether to continue to use the estimates from earlier studies or to move toward the estimates from the current research. This study has been able to construct a sample of sufficient size to increase the confidence in the results, but most importantly, this study has used the most recent data available. Consequently, I can recommend the use of these new estimates for construction of child support obligation tables, with the understanding that they are used in conjunction with recent data on the relationship between family disposable income and family total spending.

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APPENDIX A-1

Annual Versus Quarterly Data

The data for this study was drawn from the Bureau of Labor Statistics (BLS) Survey of Consumer Expenditures (CE). This continuing national representative survey samples consumer units and interviews them on a quarterly basis up to five times. The data used for this analysis construct annual family data from families that had at least three interviews regardless of whether the interviews occurred within the same year or different, but consecutive, years.

Only the last four interviews appear in the public use file. A consumer unit may refuse to answer the survey or the BLS is unable to contact the consumer, and consequently fewer than four completed interviews for a consumer unit may be available in the public use file. Additionally, given the sample design, if a fixed calendar period of time is used (e.g., all interviews conducted from January 1 through December 31 of a given year), it is impossible to capture many families who have completed four interviews. Specifically, limiting the sample to a calendar year is likely to result in one out of seven consumer units having completed four interviews, three out of seven consumer units having interviews from the previous year, and three out of seven consumer units having interviews that will be conducted in the next year. This appendix examines whether it makes a difference if the analysis considers expenditure data on a quarterly or annual basis. Specifically, one alternative time unit of observation is the quarter in which each quarter's data is treated as a separate observation.

The BLS recommends that the quarterly interviews be treated as independent samples for analysis. The USDA follows this recommendation when constructing its estimates of the cost of children. In contrast, most economists producing estimates of the cost of children using indirect methods, such as the Engel or Rothbarth, rely on an annual time period and aggregate the quarterly data into a single observation for each consumer unit.

To illustrate the difference between the two approaches, consider an expenditure concept such as spending on adult goods, food consumed in the home, or even total expenditures. Denote this expenditure concept by X and let

X_{qi} = the observation of X for the ith consumer unit from the qth quarterly interview and

Q_i = the total number of quarterly interviews from the ith consumer unit (the maximum number of interviews would be 4).

Assume that the ith consumer unit has only three quarterly interviews ($Q_i = 3$) in the sample; hence the ith consumer would appear three times in a quarter-based sample and each quarterly value of X would be "annualized" ($4X_{1i}$, $4X_{2i}$, $4X_{3i}$). When the quarterly data are annualized for each consumer unit, the consumer unit would appear only once, with a single value for X_{Ai} as

$$X_{Ai} = \frac{4}{Q_i} \sum_{q=1}^{Q_i} X_{qi} = \frac{4}{3} \sum_{q=1}^{3} X_{qi} \; .$$

Annualizing the expenditures by consumer unit eliminates the quarterly variation in expenditures while recognizing that the data are coming from a single consumer unit.

If there is only a small amount of variation across a consumer unit's quarterly observations, the issue of the use of a quarterly versus annual time unit would seem inconsequential. In contrast, if there is significant variation across time for a given consumer unit, the choice of time unit may affect the analysis. This could hold especially true where variation is due to zero expenditures for a particular good in one quarter, while expenditures for the same good are made in other quarters. The variation is likely to depend on the type of the good. For example, although expenditures on food and total expenditures display some variation across time for a consumer unit, they vary little from quarter to quarter relative to expenditures on adult clothing; hence, quarterly differences in food and total expenditures make little difference in the analysis. In a quarterly sample of consumer units consisting of two married adult units with and without children, the coefficient of variation is .17 for total expenditures and .22 for food at home, but 1.01 for adult clothing, roughly five times more than the other two categories. This suggests that an Engel methodology would be relatively unaffected by the choice of time frame, while the Rothbarth could be.

While the remainder of the appendix examines the effect of the choice of time unit for the analysis, it is helpful to recall that indirect measures of the cost of children (i.e., Engel and Rothbarth) reflect the estimation of two separate effects. One effect is the impact of children on the expected value of the consumption of a good (i.e., as measured by the difference in the expected consumption of a good by a unit with a child and one without a child, holding total spending constant). The second effect is the corresponding "income" effect (i.e., how spending on the good changes as total spending increases). Most of this appendix considers the impact of the time period of analysis on the first effect. With regard to the income effect, the use of an annual time period will likely produce less biased estimates compared to the use of the quarterly time unit. To illustrate this, assume that any quarter's value of total spending reflects three components: a permanent component, a transitory component reflecting macroeconomic conditions, and measurement errors. By using an annual time frame, the third component (i.e., the measurement error) should be reduced, and, consequently, so should deviations of the observed value of total spending from its permanent component. If individuals make their spending decisions based on the permanent component of total spending, the use of quarterly data in lieu of annual data should "bias" the estimate of the "income" effect downward. With all other estimates held constant, this should increase the estimated cost of children. It should be noted that, given that there is little variation in total spending for any consumer unit, the expected effect is unlikely to be large. Finally, the question of measurement error in spending on either adult goods or food should not affect the estimates of the cost of children. It will only serve to raise the estimates of the mean squared error in the models.

In my opinion, the case for the use of annual period is unquestionably the right choice. In the remainder of the appendix, I will formally examine how the "sample selection" on the part of the individual consumer units may affect the estimates based on the use of quarterly, as opposed to annual, time period.

Sample Selection and Time Unit

If we compute the mean of annual amounts based upon treating each quarter independently versus using the available data for each consumer to construct its "annual" value of X, the respective means would equal

$$\overline{X}_{Quarter} = \frac{1}{\sum\limits_{i=1}^{N} Q_i} \left(\sum_{i=1}^{N} \sum_{q=1}^{Q_i} 4\, X_{qi} \right) \qquad \overline{X}_{Annual} = \frac{1}{N} \left(\sum_{i=1}^{N} \frac{4}{Q_i} \sum_{q=1}^{Q_i} X_{qi} \right).$$

If every consumer were represented in the sample four times (the maximum number of possible interviews), then it is clear that both approaches would yield identical values. However, when some consumers have fewer than four interviews, differences between the two methods will arise and will depend on how completion of the four interviews is related to value of X,

$$\overline{X}_{Annual} - \overline{X}_{Quarter} = \frac{4}{\overline{Q}N} \sum_{i=1}^{N} \left(\frac{\overline{Q} - Q_i}{Q_i} \right) \sum_{q=1}^{Q_i} X_{qi} = \frac{4}{\overline{Q}} \left[\sum_{c=1}^{4} \theta_c \left(\overline{Q} - c \right) \overline{X}_c \right] \quad (A.1)$$

where

$$\overline{Q} = \frac{1}{N} \sum_{i=1}^{N} Q_i$$

equals the average number of completed interviews, N_c represents the number of consumer units who have completed c interviews ($c = 1$ to 4),

$$\overline{X}_c = \frac{1}{N_c} \sum_{i=1}^{N_c} \left(\frac{1}{c} \sum_{q=1}^{c} X_{qi} \right)$$

equals the average quarterly value of X for those have completed c interviews, and q_c ($= N_c/N$) is the proportion of consumer units that completed c interviews.

If $\overline{x}_c$ is independent of the number of completed interviews (in other words, the average X is the same for all four groups), then it can be shown that

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$$\sum_{c=1}^{4} \theta_c \left(\overline{Q} - c \right) = \overline{Q} \sum_{c=1}^{4} \theta_c - \sum_{c=1}^{4} \theta_c c = 0$$

and, consequently, both methods of computing the average should yield the same value. However, if there is a systematic relationship between a given number of interviews and the average value of X, then how the average value is computed will influence the value of the mean. If completion of interviews is associated with higher values of X (i.e., as the number of completed interviews increases, $\overline{x}_c$ also increases), then the average value computed from the quarterly observations would exceed the mean computed from the annualized values of X for each consumer unit. However, if there is a negative correlation between completing interviews and the average quarterly value, then the average computed from the "annualized" values would exceed the average, assuming the quarterly observations are independent of each other.

Variability of *X* and Choice of Time Frame

Assuming that there is no correlation of X with the individual's decision to complete the interview, is it possible that the quarterly variations of X could create a systematic relationship between the mean of X and the number of interviews completed? This would occur if only nonzero values of X are employed in the analysis, as in the situation when analyzing the $ln(X)$.

To illustrate this potential source of correlation, assume that X takes on only two values, 0 and X^*. where the value of X^* occurs with probability equal to p. Now, consider that X is positive for purposes of attempting to estimate the annual value of X. For those units who completed only one interview, p percent would have X^*, and the rest would be zero. Consequently the "annual" mean of those units who completed only one interview and had a nonzero value of X would be $4X^*$. Now, for those who have completed two interviews, p^2 would have X^* in both quarters or $4X^*$ on an annual basis. Another portion of the population $(-2(1-p)p)$ would have X^* in one period and zero in the other. On an annual basis, this is equal to $2X^*$. The remaining $(1-p)^2$ would have zero X in both periods. The average annual value of X when X was nonzero on observational basis would be

$$\overline{X}_2 = \frac{p^2(4X^*) + 2p(1-p)(2X^*)}{p^2 + 2p(1-p)} = \frac{p^2 + p(1-p)}{p^2 + 2p(1-p)}(4X^*) < 4X^* = \overline{X}_1.$$

In general, for $c > 1$ we can determine the relationship between the mean of X of those with c completed interviews and the mean of X with those who have completed $c - 1$ interviews as

$$\overline{X}_c = \frac{1}{1 - (1-p)^c} \sum_{j=1}^{c} \frac{c!}{j!(c-j)!} p^j (1-p)^{c-j} 4\left(\frac{jX^*}{c} \right) = \frac{p(4X^*)}{1 - (1-p)^c} < \overline{X}_{c-1}.$$

Consequently, variability in X can create a difference in the estimates of the mean of X based on annual and quarterly time units that is similar in nature to the differences created by sample selection.

While differences between annual and quarter time periods will exist in the presence of variability of X or sample selection processes, these differences will have an impact on the estimates of the cost of children only to the extent there is a differential effect by demographic factors (e.g., the effect of time unit choice is different for childless couples than for units with children).

Exhibit A-1-1. Percentage Difference From Overall Mean of Group

Food at Home

Number of Completed Interviews	Number of Children			
	0	1	2	3 or more
1	–2.6%	–1.7%	–1.9%	–3.8%
2	–2.4	–3.2	–2.2	3.1
3	0.3	–1.7	–0.1	–2.6
4	3.0	4.0	2.3	2.6
Overall Mean	$4,440	$5,267	$6,172	$6,841

Adult Goods

Number of Completed Interviews	Number of Children			
	0	1	2	3 or more
1	10.1	20.4	15.0	13.9%
2	–3.2	–7.9	–6.5	7.1
3	–6.5	–12.9	–1.5	–11.8
4	–1.8	–3.4	–4.2	–5.0
Overall Mean	$2,409	$1,967	$1,623	$1,486

Total Spending

Number of Completed Interviews	Number of Children			
	0	1	2	3 or more
1	–6.1%	–2.3%	–3.0%	–8.6%
2	–1.4	–10.1	–3.7	8.8
3	–3.3	–3.2	–3.3	–6.4
4	6.8	9.0	7.4	5.0
Overall Mean	$49,588	$53,202	$57,636	$58,913

Percentage Difference From Overall Mean of Group

Ln(food share/nonfood share)

Number of Completed Interviews	Number of Children			
	0	1	2	3 or more
1	2.2%	0.7%	1.6%	3.3%
2	−0.0	2.9	1.9	0.6
3	0.7	2.2	1.3	1.0
4	−2.0	−3.2	−2.5	−3.4

Ln(Adult Goods in $1,000)

Number of Completed Interviews	Number of Children			
	0	1	2	3 or more
1	50.4%	32.9%	17.7%	18.3%
2	−31.1	−23.8	−25.6	−2.0
3	−41.1	−41.3	−12.0	−21.4
4	2.1	9.3	7.7	2.4

Ln(Total Spending in $1,000)

Number of Completed Interviews	Number of Children			
	0	1	2	3 or more
1	−2.5%	−1.3%	−1.5%	−2.5%
2	−0.6	−2.2	−1.3	0.8
3	−0.1	−1.1	−0.5	−0.9
4	2.2	2.8	1.8	2.0

APPENDIX A-2

Construction of Analysis Sample

The data for this study was drawn from the Consumer Expenditure Survey (CE) by selecting all of the quarterly interviews conducted from January 2004 through March 2009. This represented 152,289 quarterly interviews. Since the same consumer unit could be interviewed up to four times, the number of unique consumer units is considerably smaller. The initial BLS sample for this time period represented 57,741 separate consumer units.

Since the intent of the analysis was to construct for each observation an annual picture of the family's spending decisions, each family (consumer unit) was characterized based on its characteristics reported in the last quarterly interview that it provided. In turn, the quarterly interviews from previous interviews were respectively used to construct the spending data for each family.

Since the purpose of this study is to examine how married parents living in the same household allocate their total spending to their children, the analysis sample should reflect only husband-wife families. The CE includes a summary variable in the public use file that was used to select only consumer units headed by a married couple. This variable was *FAM_TYPE*, and only those records that had a value of less than 6 were chosen. This selection eliminated single-parent families with children, individual adults living alone, and groups of unrelated adults. This selection criterion eliminated more than half of the original sample (29,413 consumer units), leaving 28,328 consumer units.

The remaining consumer units included a varied group of types of families ranging from families composed of husbands and wives living alone; families living solely with their own children under 18 years old; families living with children other than their own children; families living with children both under and over 18 years old; families living with their own children who were all over 18 years; and families living with relatives such grandparents, aunts, or uncles. Instead of trying to model these complex living arrangements, the analysis sample was limited to two groups of husband-wife families: husbands and wives living by themselves, and husband-and-wife families who were living solely with their own children under 18 years old. This selection was achieved by limiting the total number of adults and nonrelated children to two. This criterion reduced the sample by 6,381 consumer units, leaving 21,947 units in the sample.

The inclusion of childless couples serves as a reference group for the estimation of the cost of children. Consequently, the ages of the husband and wife in these childless couple units should reflect the ages of the parents with children. The age threshold of 60 years old was used to eliminate childless couples who were of the likely age of their counterparts who have children under 18 years old living with them. Eliminating families where either adult was more than 60

years old dropped 5,926 childless couples from the sample and 108 families with children. This left 15,895 families in the sample.

The next sample selection criterion was performed to not allow "outliers" to overly influence our estimates. We dropped from the sample any family with more than six children. This resulted in the loss of 18 families, leaving 15,895 observations in the sample.

The previous selections were made using the information provided from the unit's last interview. Since the spending information was to be constructed from the previous interviews, any consumer unit whose size or family status changed from the previous interviews was eliminated. For example, a child could have been born, the couple could have become married, or someone could have been living in the unit and left during the prior nine months. The criterion that the size and composition of the unit had to be stable across all of the interviews eliminated another 1,281 families, leaving a total of 14,614 husband-wife families with and without children in the analysis sample. In this sample, there were 5,543 husband-wife families without children and 9,071 husband-wife families with children.

The sample at this point represents the "core sample" for the analysis. In past analysis, two additional sample restrictions were considered. In the CE, the BLS must top-code both income and spending data to protect the confidentiality of respondents. While the identification of the units whose income has been top-coded is straightforward, the top-coding of the spending is extremely difficult to accomplish. In general, the top-coding of the income data represents high-income units, and if they were eliminated from the sample, it would limit the ability to generalize the results from the analysis. However, eliminating these units from the sample may also capture some of those consumer units whose spending data is also top-coded. Eliminating the units whose income has been top-coded reduces the sample by 1,790 families, leaving a total sample of 12,824. This sample is used when considering the impact of alternative assumption. The sample that does not include observations where the family income was top-coded is noted as the "alternative sample."

In the past, I have produced estimates of the spending decisions of families based on observations of consumer units that included at least three quarterly interviews. As discussed earlier, this criterion was chosen so that the quality of the spending data could be improved if the annual estimate were based on at least three interviews, as opposed to as little as one interview. This assumption was tested by limiting both the core and alternative samples to only those families with three or four completed interviews. This restriction on the sample eliminated 46 percent and 47 percent of the two samples, respectively.

The following table presents the final sample sizes and distribution of observation for the four samples that will be used in the analysis. Note that the analysis reported in the body of the report will primarily reflect the core sample limited by the restriction that the consumer unit must have had at least three interviews.

Exhibit A-2-1. Sample Sizes of the Four Alternative Samples—Husband–and-Wife Families

	Without Children	With Children	Total
Meeting criteria			
Core sample	5,543	9,071	14,614
Alternative sample	4,902	7,922	12,824
Limited to 3 or 4 completed interviews			
Core sample	2,937	4,909	7,846
Alternative sample	2,566	4,217	6,783

Description and Construction of Variables

This appendix describes the construction of the variables used in this analysis. All variables were constructed using the Consumer Expenditure Survey (CE) conducted in the period starting with first-quarter 2004 and ending with first-quarter 2009.

Adult Goods

For this study I used three variables describing spending on food at home, adult goods, and total spending. The discussion begins with a description of these variables and ends with a description of how annual values of the variables were constructed.

Spending on adult goods is the adults' (parents') purchases of clothing. The BLS provides two sets of variables that capture spending on clothing for adults (*MENSIXPQ*, *MENSIXCQ*, *WOMSIXPQ*, and *WOMSIXCQ*); however, these variables capture spending on clothing made for all members of the consumer unit who are age 16 and older. In the analysis sample, 22 percent of units with children have at least one child who is either 16 or 17 years old; consequently, if there were purchases for clothing for these children, it would appear as an adult expenditure. In the study, I employed two different constructions of adult clothing. The first uses just the reported value of the sum of the above four variables. The second attempts to adjust the reported amounts to better reflect the spending by the parents and not the older children. The adjustment was a per capita adjustment—the amount used in this second version was the reported amount times the ratio of two (the two parents) to the number of unit members 16 years old and older (the two parents and the number of children 16 and 17 years old).

Total Spending

The BLS offers two measures of total spending in the consumer unit. The first is their expenditure concept (TOTEXPPQ and TOTEXPCQ), while the other is denoted as the unit's expenditures outlays (ETOTALP and ETOTALC). The difference between these two concepts is that the outlay concept includes principal payments for any loans, while the expenditure concept does not. Both of the above BLS summary measures include two forms of what most researchers would call savings—payment of social security payroll taxes and payments to retirement plans. In our definition of current spending, both of these amounts were subtracted from the above two summary measures to construct our measure of quarterly spending.

After the subtraction of payments to pension plans and social security taxes, the following spending categories are included in the expenditure concept:

- Food: Food prepared and consumed at home, food purchased and consumed away from home

- Housing: Mortgage interest paid, property taxes, maintenance and repair, rent paid, home insurance, utilities, personal services including child care, housekeeping supplies, household furnishings and equipment
- Apparel: Clothing, footwear, cleaning services and supplies
- Transportation: Net outlays for the purchases of vehicles, vehicle finance charges, leases, gas and oil, maintenance and repair, insurance, licenses and other charges, and public transportation
- Entertainment: Fees and admission, entertainment equipment, toys, and pets
- Health care: Health insurance, nonreimbursed expenses for medical services, drugs and supplies
- Tobacco and alcohol
- Personal care, reading, and education
- Cash contributions to individuals outside the consumer unit
- Personal insurance: Life and other personal insurance premiums
- Miscellaneous: Funeral expenses and plots, checking charges, legal and accounting fees, interest paid on lines of credit, home equity loans, and credit cards

Each consumer could be interviewed up to four times. To construct annual spending amounts, first the quarterly (three-month) amounts of spending were constructed from each of the unit's available quarterly interviews. These amounts were then indexed to reflect spending at the midpoint of the time period of the analysis sample. For this purpose, this was assumed to be 2006, and consequently the average CPI for 2006 (201.6) was used as the reference period. Hence, if a unit was interviewed in month t, then each spending amount was indexed to reflect an amount in 2006 by multiplying the spending amount by the following factor:

$$Adjustment_t = \frac{201.6}{\left(CPI_{t-1} + CPI_{t-2} + CPI_{t-3}\right)/3}.$$

Once the available quarterly spending amounts were price adjusted, they were "annualized" by first computing an average quarterly amount based on the available quarterly interviews and then multiplying by four.

Demographic Variables

To be in the sample, the consumer unit could include only two adults who were married. For this analysis, a child was defined to be a member of a consumer unit who was less than 18 years old and was an only child of the married adults. Finally, the sample was limited to husband-wife families with six or fewer children. Consequently, the number of family members in the sample ranges from two to eight. The number of family members was characterized in two alternative ways. The first was to include a variable that was the log of the number of family members (*lnfsize*) that reflects the way that in the past captured the size of the consumer unit. An alternative approach is to provide a series of dummy variables that characterize the number of children in the unit, with the omitted group being childless couples. For this study, the approach was to include the following five dummy variables:

kid1 = 1 if there is one child in the unit, 0 otherwise
kid2 = 1 if there are two children in the unit, 0 otherwise
kid3 = 1 if there are three children in the unit, 0 otherwise
kid4 = 1 if there are four children in the unit, 0 otherwise
kid5 = 1 if there are more than four children in the unit, 0 otherwise

To control for other characteristics of the unit, I have included variables describing the parents with regard to their race, education, and work status. Also, I have included variables indicating the region of the country where they were located. In all cases, the data from the unit's last available interview was used to construct these variables. The variables included in the analysis were:

black = 1 if the race of the reference person is black, 0 otherwise
hnohs = 1 if the husband does not have a high school degree, 0 otherwise
hcollege = 1 if the husband has a four-year college degree, 0 otherwise
wnohs = 1 if the wife does not have a high school degree, 0 otherwise
wcollege = 1 if the wife has a four-year college degree, 0 otherwise
ww_wife = the number of weeks (0 to 52) worked in the past year by the wife
wfulltime = 1 if the wife worked more than 30 hours per week, 0 otherwise
bothwork = 1 if both the husband and wife worked in the previous year, 0 otherwise
ne = 1 if the consumer unit lived in the Northeast census region, 0 otherwise
south = 1 if the consumer unit lived in the Southern census region, 0 otherwise
west = 1 if the consumer unit lived in the Western census region, 0 otherwise

Other Control Variables

While all spending variables were indexed, I included a series of dummy variables based on the year that the last interview of the consumer unit was conducted. The included variables were:

y2004 = 1 if the last interview was conducted in 2004, 0 otherwise
y2005 = 1 if the last interview was conducted in 2005, 0 otherwise
y2007 = 1 if the last interview was conducted in 2007, 0 otherwise
y2008 = 1 if the last interview was conducted in 2008 or 2009, 0 otherwise

where the omitted group was those units whose last interview was conducted in 2006.

To control for the number of interviews that were completed by the consumer unit, I included the following three dummy variables in the analysis:

complete1 = 1 if the unit completed only one interview, 0 otherwise
complete2 = 1 if the unit completed only two interviews, 0 otherwise
complete3 = 1 if the unit completed only three interviews, 0 otherwise

where the omitted group was those units that had completed all four interviews.

APPENDIX A-4

Theoretical Justification
of Rothbarth Approach

The Rothbarth approach to the measurement of the cost of children assumes that parents have well-defined preferences for goods that only they consume and goods consumed by both themselves and their children. To simplify the theory behind the Rothbarth approach, it is assumed that there only two types of goods: adult goods (AG, consumed only by the parents and never consumed by children) and all other goods (O). When the parents (two adults) are childless, the decision of how to allocate their spending between two goods can be characterized as reflecting their desire to maximize their well-being (characterized by a utility function) subject to their ability to meet their wants (the budget constraint). Mathematically, this choice can be characterized as

$$\text{Maximize } U = U(AG, O)$$

$$\text{Subject to: } p_A\, AG + p_O\, O = TS$$

where p_A and p_O reflect the market prices of a unit of AG and O, respectively, and TS is equal to the total spending of the couple. All goods other than adult goods, O, represents a composite good that is composed of goods that could be consumed by either adults or children.

The presence of children in the family represents the addition of wants and needs to the family without a corresponding increase in the family's ability to meet those additional wants and needs. If the TS amount of total spending of two adults without children were compared to a two-parent family with a child with the same amount of total spending, it would appear that the childless couple would be materially better off than the couple with a child. (This is without considering the well-being and satisfaction that parents receive from having the child and only considering the well-being derived from the goods that the family can acquire given how much they spend, TS). Specifically, let us assume that the childless couple decides to purchase $p_A\, AG_0$ dollars of adult goods and $p_O\, O_o$ dollars of other goods, given they have the ability to spend TS dollars. If the family with the child spent the same amount on the two goods, it makes good sense that they would be worse off because the same consumption is being directed toward more individuals. Only if the composite good were a pure public good would the family with a child be able to avoid a decline in their material standard of living compared to the childless couple.

Barten (1964) provided a framework to formalize the family's additional need for consumption of all other goods (his method allowed the relative needs of different families to vary for all consumption goods), by letting f equal 1 if the couple is childless and a value of ϕ exceeding 1 if a child is present in the family. To model this, need adjusted consumption of the family is assumed to equal $O^* = O/\phi$ for all other goods. Since the need for adult goods will, by assumption, not change for adult goods, the need adjusted consumption for adult goods will

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equal $AG^*=AG$. For the purposes of the model, it is also assumed that the family's well-being or standard of living depends upon their consumption of the goods adjusted by the relative needs of the family,

$$U=U(AG^*,O^*).$$

Consequently. if a family without children purchases the same amount of both goods as a family with a child, then it will better off:

$$U(AG,O) > U(AG,O/\phi).$$

The Barten transformation of quantities of goods suggests that the parents' decision of how to allocate their consumption given their family structure (with or without children) and the level of family's total spending can be characterized as the following:

$$\text{Maximize } U = U(AG^*, O^*)$$

$$\text{Subject to: } (p_A) AG + (p_O \phi) O = p_A{}^* AG^* + p_O{}^* O^* = TS$$

where

$$p_A{}^* = p_A \quad p_O{}^* = \phi p_O \quad AG^*=AG \quad O^* = O/\phi.$$

The insight of the Barten reformulation of the consumer model is that additional needs of family that are due to the presence of the child not only directly affects well-being by reducing the adjusted amount of all other goods ($O/\phi < O$) but also results in increasing the relative price of goods consumed by child and adults (O) relative to goods consumed only by adults (AG).

The desired level of expenditures for AG and O can be written as

$$p_A AG = p_A AG(p_A, \phi p_O, TS)$$

$$p_o O = \phi p_o O(\phi p_O, p_A, TS).$$

The presence of a child will have the following effect on consumption decisions in the family (as ϕ goes from 1 to ϕ):

$$\frac{\partial ln(p_A AG)}{\partial ln(\phi)} = \varepsilon_{AO} = \frac{\partial ln(AG)}{\partial ln(p_o)}$$

$$\frac{\partial ln(p_o O)}{\partial ln(\phi)} = 1 + \varepsilon_{oo} = 1 + \frac{\partial ln(O)}{\partial ln(p_O)}.$$

Hence, if the demand for other goods is price inelastic ($|\varepsilon_{oo}| < 1$), spending on all other goods will rise and spending on adult goods will decline with presence of a child. It should be noted that if the demand for other goods were elastic ($|\varepsilon_{oo}| > 1$), spending on adult goods could rise because of a reduction in spending on all other goods.

Using the Slutsky decomposition of the cross-price effect (ε_{AO}), the decrease in spending on adult goods with the addition of a child is the result of income and substitution effect. When the child is introduced into the family, the child's needs reduce the standard of living of the family and the income effect represents how the family will respond to the decrease in their well-being. The expected result is that both goods are normal, and consequently the family will respond by decreasing their purchases of both goods. The second effect is the substitution effect that reflects the effect of changing relative prices on the family's consumption decision. The consumer model assumes that individuals will always substitute toward goods that get relatively cheaper that in this situation are adult goods. Hence, the substitution effect will counteract the income effect, but for the family's spending on adult goods to decline with the presence of the child, the income effect must dominate the cross-price substitution effect.

Exhibit A-4-1 depicts the theoretical underpinnings of the Rothbarth approach (1941). The horizontal axis in the figure represents the need-adjusted quantities of all other goods (O^*), and the vertical axis represents the needs-adjusted quantities of adult goods (AG^*). Assume that the parents have one child and TS_3 is the amount of total spending. Given the market prices for adult goods and all other goods and the total amount of spending, a family of three faces the budget constraint depicted by the line EF. Note that the vertical intercept represents the maximum amount of adult goods that the family can purchase and is equal to $TS_3/p_A{}^*$, which also is *al* to TS_3/p_A (the children do not increase the needs of adult goods). The horizontal intercept represents the maximum amount the family of three can purchase of needs-adjusted quantities of all other goods required by the needs of the child ($-TS_3/(\phi p_O)$), which is less than what could be purchased by a childless couple. Note that the budget constraint that the adults would face if they did not have the child would be EG. A comparison of budget constraints EF and EG depict what has been previously noted—the presence of a child makes the family worse off in a material sense and the price of all other goods relative to the price of adult goods rises.

The family with the child will allocate their consumption so as to maximize their well-being. In Exhibit A-4-1, this occurs at point B, which corresponds to the family spending $p_A AG_3$ on adult goods and the remainder of their budget on all other consumption. When the family has maximized their well-being at point B, the rate that the family is willing to trade the two goods (the marginal rate of commodity substitution) will equal the "effective" price of all other goods relative to the price of adult goods. This is depicted in the figure by the indifference curve through point B that is tangent to the budget constraint at this allocation of consumption.

Had the parents been childless and spent the same amount on adult goods and all other goods, they would have been better off because the consumption of all other goods would not be "shared" with the child. This consumption bundle is depicted by point C in the figure. However, this consumption allocation will not maximize the well-being of the two adults; they will want to substitute toward more spending on adult goods and less on all other goods. Assuming that they will choose to allocate their spending consistent with point D by spending $p_A AG_2$ on adult goods and the remainder on all other goods, the two adults are materially better off than a couple with a

child. Using this assumption, Rothbarth asked, How much spending can I take away from the couple to make them equally well off as the couple with the child?

Exhibit A-4-1. Illustration of Rothbarth Methodology
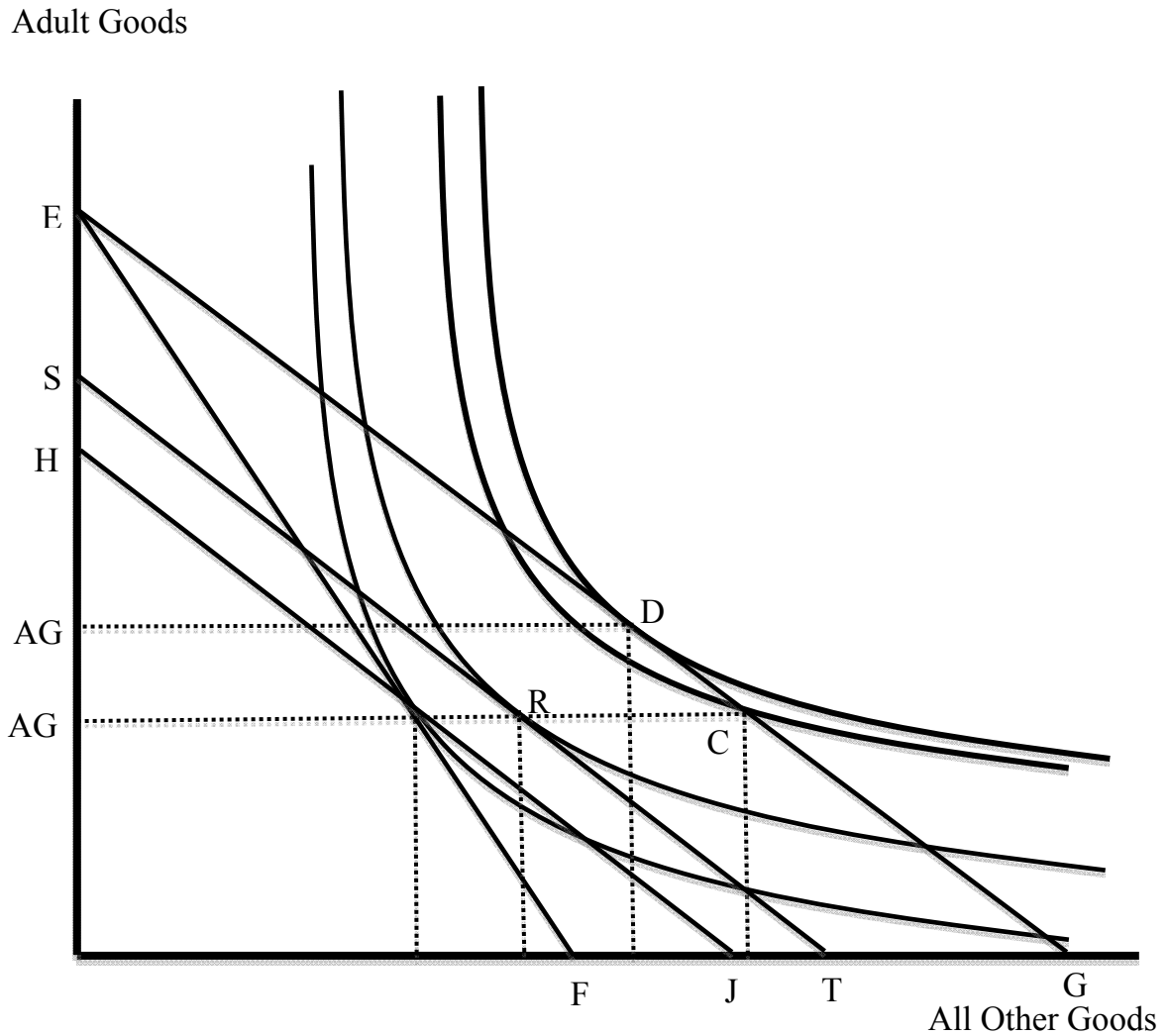
Rothbarth's approach was based on knowing the relationship between spending on adult goods, the number of children, and total spending. The following equation assumes that the relationship is

$$AG=AG(K, TS)$$

where K is the number of children in the two-parent family. When the family has one child and TS_3 amount of spending, it will purchase AG_3 units of adult goods (point B when facing the budget constraint EF):

$$AG_3=AG(K=1, TS_3).$$

If the parents were without the child, they would purchase AG_2 units of adult goods (point D when facing the budget constraint EG):

$$AG_2=AG(K=0, TS_3).$$

When the total spending for the childless couple is reduced, the budget constraint parallel shifts inward to the origin (relative prices of goods remain unchanged because the family composition is being held constant) until

$$AG_3=AG(K=0, TS_2).$$

In Exhibit 4-1-1, reducing income or total spending of the childless couple is equivalent to a parallel shift inward of the budget constraint EG to reflect holding the effective prices of adult goods and all other goods constant for the couple. The question is whether the reductions in total spending to reduce the couple's spending on adult goods will leave the couple at point B in Exhibit 4-1-1, corresponding to the budget constraint HJ. If the couple is left at point B, then the reduction in total spending has left the couple with the same needs-adjusted consumption of both goods as the couple with a child and consequently equally well off. However, this will occur only if there is no substitution effect (i.e., the couple does not react to changes in relative prices). If there is a substitution effect, then the couple, when facing the budget constraint HJ, will adjust their consumption by buying fewer adult goods and more of all other goods than the couple has at point B. Consequently, to limit their consumption to AG_3, a smaller reduction in total spending would have to be made. The budget constraint ST reflects the budget constraint where the couple reacts to changes in relative prices (there is a substitution effect) and after the reduction in total spending purchases, AG_3 units of adult goods. However, as is shown in the diagram, the couple, after this amount of reduction in total spending, would be better off than the couple with the child. This demonstrates the assertion that the Rothbarth method will understate the true costs of a child—the childless couple could experience larger declines in total spending than indicated by the Rothbarth approach and still be better off.

The Engel Method and Its Critique

The Engel method is based on the assumption that the share of total spending devoted to food consumption is an inverse reflection of the well-being of the family—if a family is better off because of any event, then the food share should decline. When families of identical size and composition are compared, families with more income or total spending do spend a smaller proportion of their total budget on food. When families with children are compared to families without children but have the same amount of total spending, families with children do spend a larger proportion of their budget on food. Armed with these two confirmations of the relationship between the share of spending devoted to food and perceptions of the material standard of living of households, the Engel method suggests that the budget share devoted to food can be used to identify equally well off childless couples and couples with a child. Specifically, the Engel method infers that a childless couple and a couple with a child are equally well-off when each family devotes the same budget share to food even though total spending would be more for the couple with a child. The difference in total expenditures between the families would be attributable to child-rearing expenditures

To illustrate the Engel methodology, let ω_F denote the share of total spending devoted to food and assume that it is a function of number of family members ($2 + K$ where K is the number of children) and the total spending of the family is TS:

$$\omega_F = \omega(2 + K, TS)$$

where

$$\frac{\partial \omega}{\partial K} > 0 \ \text{ and } \ \frac{\partial \omega}{\partial TS} < 0 \, .$$

If a couple has K children and TS_K amount of total spending, then, by the Engel methodology, a childless couple with TS_O amount of spending would be equally well off where TS_O is determined by equating the food shares across the two family types:

$$\omega(2, TS_O) = \omega(2 + K, TS_K).$$

To provide an explicit example, let the food-share relationship be represented by the following linear equation:

$$\omega(2 + K, TS) = \xi + \alpha(2 + K) - \beta TS \, .$$

Hence the equivalent level of total spending for a childless couple would equal

$$\xi + \alpha(2) - \beta TS_O = \xi + \alpha(2 + K) - \beta TS_K$$

or

$$TS_O = TS_K - \frac{\alpha}{\beta}K.$$

f it is inferred that the difference in total spending in a family with K children and the equivalent spending for a childless couple is the "cost" of the children to the parents and consequently the share of the family's spending devoted to the children is equal to

$$\text{Share of total spending devoted to the children} = \frac{TS_K - TS_O}{TS_K}.$$

For the specific example used for illustration, the share of total spending devoted to the children is equal to

$$\frac{\alpha}{\beta} \times \frac{K}{TS_K}.$$

The Engel approach has been utilized by numerous researchers, most notably Espenshade (1984),[28] whose estimates were used by many states to develop their initial child support guidelines. While the underlying assumptions of the approach seem to be verified by data on family spending, scholars questioned whether there was a theoretical basis for the Engel methodology. Employing the Barten approach to incorporating family characteristics into a consumer demand model through the assumption of commodity-specific economies of scale, Gorman (1976) demonstrated that the Engel methodology would produce accurate estimates of the changes in total spending so as to leave families equally well off as the characteristics of families changed.[29] Specifically, as the number of children increased, the family would require an equally proportional increase in each commodity for them to be equally well off. For example, if, after a couple has one child, they would require 30 percent more food to be equally well off, they would also require 30 percent more housing, 30 percent more transportation, and 30 percent more of every commodity. Given the presence of adult goods whose need should not increase with children, it is doubtful that spending data would validate the Gorman condition.

Examining the situation where there were only two goods (i.e., food and all other goods), Deaton and Muellbauer (1986) showed that the Engel methodology would lead to an overestimation of the true costs of the children to the parents.[30] Paired with observation that the Rothbarth methodology would always lead to an underestimation of the true costs of the children, the Deaton and Muellbauer paper suggested to many researchers that the Engel and Rothbarth approaches would serve to "bracket" the true cost of children and that the Engel estimates would always exceed the estimates provided by the Rothbarth approach.–

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[28] Espenshade, *supra* note 14
[29] William Gorman, "Tricks with Utility Functions," in *Essays in Economic Analysis,* ed. M. Artis & R. Nobay (Cambridge Univ. Press, 1975).
[30] Deaton & Muellbauer, *supra* note 230.

In their 1998 article, Deaton and Paxson leveled a fundamental critique of the Engel methodology.[31] Central to the Engel approach is that food consumption is an indicator of the well-being of the family. While I have used the effect of increases in family size and total spending on the food share as tests of Engel methodology, Deaton and Paxson propose a new test. Their reasoning is both unique and complex and revolves around a hypothetical increase in family size that is offset with an increase in total spending that leaves the per capita total spending in the family unchanged. For example, consider that a couple with $40,000 who is initially childless and then has a child. For the family's per capita total spending to remain constant, their total spending needs to increase by $20,000 to $60,000. Assuming any economies of scale in consumption, a couple who has a child but whose per capita income remains constant should be better off—their consumption needs rise by less than their total spending. Using the Barten model of consumer behavior, Deaton and Paxson demonstrate that if this occurs, then per capita spending on food ($F/(2 + K)$ where F is food consumption) should increase. But if per capita total spending is constant, then the food share should increase:

.This observation presents the Engel methodology with two problems. The first is an empirical problem. While the theory suggests that per capita food consumption should increase when family size increases, when per capita total spending is held constant, the empirical data indicates the opposite—that is, it declines. The second problem is even more problematic because it strikes at the heart of Engel methodology—that is, the food share should be inversely related to the well-being of the family. In this situation, when there is an increase in family size, with per capita total spending held constant, the family would be better off, but the food share should rise, not fall, as assumed in the Engel methodology.

The Deaton and Paxson critique of the Engel methodology, in my opinion, undermines any trust that should be placed in estimates based on this approach. Deaton and Paxson best sum up the paradox when they observe, "Although Engel's method is internally consistent, it directly contradicts the model of scale economies and public goods presented. In consequence, the estimates of the economies of scale that are derived by Engel's method have no theoretical underpinnings and are identified by an assertion that makes no sense." [32]

To illustrate the potential problems of the Engel approach, a particular index of well-being denoted as the Linear Expenditure System (LES) is assumed that also assumes families will need a level of consumption of goods that varies by commodity. For this illustrative example, three goods are assumed: adult goods (x_A); food (x_F); and all other goods (x_O). The index of well-being for this formulation of the family's preferences is equal to

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[31] Deaton & Paxson, *supra* note 230.
[32] *Id.* at p. 903.

$$U = \beta_A \ln\left(\frac{x_A}{\mu_A} - \phi_A\right) + \beta_F \ln\left(\frac{x_F}{\mu_F} - \phi_F\right) + \beta_O \ln\left(\frac{x_O}{\mu_O} - \phi_O\right).$$

The parameter ϕ will denote the level of need by a childless couple for each of three goods, and we will assume the following values:

$\phi_A = 500 =$ needed amount of adult goods

$\phi_F = 4,000 =$ needed amount of food

$\phi_O = 12,000 =$ needed amount of all other goods

The parameter μ denotes for each commodity the relative needs of a family with a child relative to a childless couple. Given that children are assumed not to consume adult goods, then μ_A would equal 1.00; however, for food and all other goods we expect a family with a child would require more food and all other goods. It is assumed that a family with a child needs 35 percent more food ($\mu_F = 1.35$), implying some economies of scale in consumption, compared to the situation where no economies of scale exist and food consumption needs would rise by 50 percent ($\mu_F = 1.50$). The relative needs for all other goods, μ_O, will be allowed to vary in the calculations from a value of 1.25 to 1.45. By definition, the value for all the μ's for a childless couples are equal to 1.00.

The parameters β's reflect the relative weights to consumption of adult goods, food, and all other goods are assumed to be equal to .10, .20, and .70, respectively. The family is assumed to maximize their preferences subject to the budget constraint where TS is assumed to be given

$$p_A x_A + p_F x_F + p_O x_O = TS$$

and p_i reflects the price of the ith good. For these calculations, we will assume that all prices are equal to \$1.

Since the representation of the family's preferences is known, the relationship for the true cost of achieving a given level of standard of living can be derived. It is equal to

$$MS + \lambda U$$

where

$MS =$ minimum level of spending $= \sum p_i \mu_i \phi_i$

$\lambda = \prod\left(\frac{p_i \mu_i}{\beta_i}\right)^{\beta_i} =$ one over the marginal utility of income, and

$U = \dfrac{TS - MS}{\lambda} =$ utility or standard of living.

For childless couples, the minimum level of spending equals \$16,500, given our assumptions. For a family with one child where μ_F equals 1.35 and μ_O equals 1.30, the minimum level of spending equals \$21,500, or \$5,000 more than the childless couple.

The equivalent level of spending for a childless couple compared to a family with one child and TS_3 is equal to

$$TS_2 = \sum p_i\phi_i + \left(TS_3 - \sum p_i\mu_i\phi_i\right) \times \prod\left(\frac{1}{\mu_i}\right)^{\beta_i}.$$

The corresponding equation for the food share is

$$\omega_F = \frac{p_F x_F}{TS} = \beta_F + \frac{p_F\mu_F\phi_F - \beta_F\sum p_i\mu_i\phi_i}{TS}.$$

And, consequently, the Engel method would lead to the following equation determining the equivalent total spending for childless couples, TS_2:

$$TS_2 = \sum p_i\phi_i + \left(TS_3 - \sum p_i\mu_i\phi_i\right) \times \prod\left(\frac{1}{\mu_i}\right)^{\beta_i}.$$

The Rothbarth method requires that the level of spending on adult goods is equated across the families. Given the LES preferences, the spending on adult goods is equal to

$$\omega_F = \frac{p_F x_F}{TS} = \beta_F + \frac{p_F\mu_F\phi_F - \beta_F\sum p_i\mu_i\phi_i}{TS}.$$

Hence, the Rothbarth estimate of TS_2 would equal ($\mu_A = 1.0$ for both childless couples and families with one child):

$$TS_2 = TS_3 - \left(\sum p_i\mu_i\phi_i - \sum p_i\phi_i\right) + \frac{p_A\phi_A(\mu_A - 1)}{\beta_A} = TS_3 - \sum_{i \neq A} p_i\phi_i(\mu_i - 1).$$

To summarize, the assumed LES preferences for the family whose parameters are equal to

$$\beta_A = .10 \ \ \beta_F = .20 \ \ \beta_O = .70$$

$$\phi_A = 500 \ \ \phi_F = 4{,}000 \ \ \phi_O = 12{,}000.$$

The price of each good is assumed to be \$1. To account for differences in family sizes, a Barten scale of the consumption of each good is assumed where the following scaling factors were employed for childless couples and families with one child:

Childless couples	$\mu_A = 1.00$	$\mu_F = 1.00$	$\mu_O = 1.00$
Families with one child	$\mu_A = 1.00$	$\mu_F = 1.35$	

The relative need for all other goods (μ_O) will be allowed to vary from 1.25 to 1.45. Finally, it is assumed that the family with one child has \$50,000 of total spending. Exhibit A-5-1 utilizes the above equations for determining the equivalent total spending for a childless couple—that is, the "true" cost using the LES utility function, the Rothbarth approach, and finally the Engel

methodology. When examining the calculations, I offer one word of caution. While the "true" cost estimates look similar to estimates seen in the empirical literature, the computed levels are not of interest and should not be interpreted as point estimates. What is of interest among these calculations is the ordinal ranking of the estimates—in particular, whether the Engel and Rothbarth estimates bracket the "true" costs of the child.

Exhibit A-5-1. Alternative Estimates of the Cost of a Child Assuming the LES Preferences

	Alternative Values of μ_O:			
	1.30	1.35	1.40	1.45
"True" cost	22.3%	24.4%	26.4%	28.2%
Rothbarth method	10.0%	11.2%	12.4%	13.6%
Engel method	36.4%	28.6%	18.6%	5.4%

As the relative needs for all other goods increases for families with a child, with the other factors held constant, not unsurprisingly the cost of the child rises. While, as expected, the Rothbarth estimates of the share devoted to the child is less than the "true" costs, they too rise as these needs increase. It is the Engel method that yields the most troubling pattern—while the other two methodologies produce increases in the estimate of the child's share of total spending, the Engel method reveals a decline in the child's share as the need for all other goods increases. While the needs for all other goods is less than or equal to additional needs for food ($\mu_O \leq \mu_F$), the Engel estimate exceeds the "true" cost of the child, and the Deaton-Muellbauer bracketing of the "true" cost by the Engel and Rothbarth methodologies is realized. However, if the relative needs for all other goods exceeds that for food ($\mu_O > \mu_F$), the child's share of total spending predicted by the Engel method becomes less than the "true" cost of the child and the bracketing is not realized. As the additional needs for other goods rise even more, however, the child's share determined by the Engel method declines so much that it is less than the Rothbarth estimate.

Appendix A-4-1 describes the rationale underlying the Rothbarth methodology using the Barten model of family scaling of consumption. This model captures the impact of family size and composition on the family's consumption decisions as price effects—that is, as the family size increases the need for some goods rises faster than others and, consequently, become more expensive relative to other goods. The price effects of family size have two effects. The first effect is that as goods become more expensive there is an income effect reflecting that the family is worse off because of their increased consumption needs. The second effect is a substitution effect as the family substitutes away from goods that have become relatively more expensive.

In the calculations prepared for this report, it has been reasonably assumed that families with children do not need more adult goods than childless couples but do need more food and all other goods. Consequently, in the comparison between families with one child and childless couples,

the "price" of adult goods does not change and is the "cheapest" good in all of these calculations. The relative price of food to all other goods is changing in these calculations. When μ_O is less than or equal to μ_F, food is relatively the most expensive commodity for the family with a child, but as μ_O increases all other goods become the most expensive commodity. This suggests that as long as adult clothing and food represent the cheapest good and most expensive good for families with a child, the Rothbarth and Engel methodologies will bracket the "true" cost of a child. When food is no longer the most expensive good, the Engel method will no longer overstate the "true" cost of a child and, as seen, can be less than the result of the Rothbarth method.

What is most troubling with these comparisons is the counterintuitive result found in the Engel comparisons. If the child's consumption needs were increasing, the costs of a child should rise. While both the "true" cost and Rothbarth measures reflect this, the Engel estimates go in the opposite direction, indicating lower costs as needs increase. This makes no sense at all.

While the Engel methodology has a long history, I do not believe that any trust can be placed in the estimates derived by this approach or any other iso-proportional approach using composite commodities based on necessities such as food, clothing, and shelter. These considerations have only strengthened my conviction that the Rothbarth approach is the superior alternative methodology to pursue.

APPENDIX A-6

Functional Form Assumptions

The Rothbarth approach assumes that the number of children and the family's total spending affect the level of spending on "adult" goods and that by examining these relationships it is possible to estimate family spending on children. To estimate how the number of children and total spending affects spending on adult goods, it is necessary to make assumptions about the nature of the relationship between these two variables and other variables that would be thought to affect the level of spending on adult goods. For example, whether the parents work or not might affect the level of spending on adult goods, which would include the parents' clothing purchases. The region of the country might also affect spending on adult goods.

This discussion examines the impact of alternative functional form assumptions on estimates of the share of total spending devoted to children based on the Rothbarth methodology. However, many of the conclusions drawn in this discussion apply equally to the Engel or any other iso-prop methodology with the sole difference being that the relationship between family size, total spending, and the iso-prop measure of well-being (the food share in the case of the Engel method) will differ. For example, while the Rothbarth assumes that family size will be negatively correlated with spending on adult goods, it will be assumed to be positively correlated with food share. In this appendix, I will be focusing on husband-wife families with and without children. Consequently, variation in family size is in reality a reflection in the number of children present in the family.

However, a generalized relationship between spending on adult goods (AG), family size ($FS = 2 + K$, where K is the number of children), total spending (TS), observed other factors (Z), and unobserved factors determining spending on adult goods (ε) can be generalized as

$$AG = F\left(FS = 2 + K, TS, Z, \varepsilon\right)$$

where the Rothbarth methodology assumes that

$$\frac{\partial F}{\partial K} < 0 \quad \text{and} \quad \frac{\partial F}{\partial TS} > 0 \, .$$

If a family with K children has TS_K total spending, then a childless couple with all the other characteristics (Z and ε) identical to the family with children would be equally well off if they had a level of total spending TS_o where

$$TS_o \quad \text{such that} \quad F\left(2, TS_o, Z, \varepsilon\right) = F\left(2 + K, TS_K, Z, \varepsilon\right)$$

and, consequently, the share of the family's total spending, TS_K, devoted to the children would be equal to

$$CS = \frac{TS_K - TS_o}{TS_K} \, .$$

Without further specification of the function, F, what determines the share of total spending going to the children is unknown. A typical assumption that is made is that the number of children and total spending are additively separable from other factors determining adult spending. Specifically, this implies

$$AG = F(FS,TS,Z,\varepsilon) = G(F,TS) + H(Z,\varepsilon).$$

Assuming this form of separability, it can be seen that the equivalent level of total spending, TS_o, will depend on the number of children and the total spending of the family with children and not on other factors:

$$TS_o \ \ such \ that \ \ G(2,TS_o) = G(2 + K,TS_K).$$

Hence, the proportion of spending devoted to the children will not be affected by the factor Z or ε. I am not aware of any study that has not made the above assumption. For the purpose of establishing child support guidelines this assumption is not problematic because if it were not made, the choice of other factors (Z) would need to be made and would theoretically affect the guideline amounts.

I now turn to how the specific choice of functional form for G will affect the share of total spending devoted to the children (CS). The question is whether the effect of the number of children or total spending on the purchases has either a constant absolute effect or constant proportional effect.

For this investigation, the first assumption is a constant absolute effect that would be the case if it were also assumed that household preferences were consistent with the linear expenditure system. While Espenshade employs an Engel approach to the estimation of spending on children, he also assumes that the effect of children and total spending (income in his case) has a constant absolute effect on spending. This assumption is referred to as the linear specification. Specifically, it is assumed that G is equal to

$$(\text{linear specification}): \ G(FS,TS) = \alpha FS + \delta TS \quad where \ \ \alpha < 0, \delta > 0$$

which implies that

$$TS_o = TS_K + \frac{\alpha K}{\delta}$$

and

$$CS = -\frac{\alpha}{\delta}\left(\frac{K}{TS_K}\right).$$

The share of spending on children will increase with the number of children but decline with increases in total spending of the family with children. The marginal effect of an additional child on the children's share (for example, the marginal effect of an additional child would reflect the

change from one child to two children) is smaller for families with higher levels of total spending but is independent of the number of children.

$$\frac{\partial CS}{\partial K} = -\frac{\alpha}{\delta}\left(\frac{1}{TS_K}\right) > 0 \qquad \frac{\partial^2 CS}{\partial TS \partial K} = \frac{\alpha}{\delta}\left(\frac{1}{TS_K^2}\right) = -\frac{CS}{TS_K} < 0 \qquad \frac{\partial^2 CS}{\partial K^2} = 0 \ .$$

The marginal effect of a change in total spending in the family with children is negative but becomes less negative with increases in total spending:

$$\frac{\partial CS}{\partial TS} = \frac{\alpha}{\delta}\left(\frac{K}{TS_K^2}\right) = -\frac{CS}{TS_K} < 0 \qquad \frac{\partial^2 CS}{\partial TS^2} = -2\frac{\alpha}{\delta}\left(\frac{K}{TS_K^3}\right) = 2\frac{CS}{TS_K^2} > 0 \ .$$

Now assuming that the impact of family size and total spending has a proportional effect on spending on adult goods, the two simple functional forms consistent with this assumption are to assume that G is equal to

$$\text{(log-linear specification): } G(FS,TS) = e^{\phi + \beta FS + \gamma TS}$$

or

$$\text{(log-log specification): } G(FS,TS) = e^{\phi} FS^{\chi} TS^{\eta}.$$

Each of these two specifications can be written alternatively by taking the log of AG and assuming that the effect of other factors (Z and ε) also have a proportional effect on total spending:

$$F(FS,TS,Z,\varepsilon) = G(FS,TS)H(Z,\varepsilon).$$

These assumptions imply that the log of adult spending will equal

$$\text{(log-linear specification): } ln(AG) = \phi + \beta FS + \gamma TS + ln\big[H(Z,\varepsilon)\big] \ \text{ where } \ \beta < 0, \gamma > 0$$

$$\text{(log-log specification): } ln(AG) = \phi + \chi ln(FS) + \eta ln(TS) + ln\big[H(Z,\varepsilon)\big] \ \text{ where } \ \chi < 0, \eta > 0 \ .$$

Since equating the levels of spending on adult goods is equivalent to equating the log of spending levels, the formula for the proportion of spending on children is equivalent to the computed proportional spending on children using the constant absolute effect model

$$\text{(log-linear specification): } CS = -\frac{\beta}{\gamma}\left(\frac{K}{TS_K}\right).$$

The reader should not conclude that this would result in the same estimated coefficients from regressing the level of adult spending on family size and total spending as from the regression of the log of adult spending on the same two variables, holding constant the same other factors. However, the ratio should be roughly the same unless the functional form choice does truly affect the estimate of the ratio. This might occur because, when using the linear specification, the

estimates, α and δ, reflect the average effect of family size and total spending at the mean of the sample, while in the log-linear model, they would reflect the marginal effects at the median observation.

The choice of the log-log specification provides an alternative of the proportion of total spending on children. In the log-log formulation the share of total spending devoted to the children equals

$$CS = 1 - \left(\frac{2}{2+K}\right)^{-\frac{\chi}{\eta}}.$$

The difference between the alternative specifications should now be evident. While in both the linear and log-linear specifications increases in total spending in the family will decrease the share of total spending on children, changes in total spending do not affect the children's share in the log-log specification. I want to emphasize that these relationships reflect functional form assumptions and not any empirical facts. The share of spending devoted to the children will depend solely on the number of children and is not a function of the total spending of the family. As the number of children increases, then the effect on the children's share of total spending will be equal to

$$\frac{\partial CS}{\partial K} = -\frac{\chi}{\eta}\left(\frac{1}{2+K}\right)(1 - CS) > 0 \text{ if } \chi < 0 \text{ and } \eta > 0.$$

The marginal effect of an additional child on the children's share of total spending will diminish as more children are added to the family:

$$\frac{\partial^2 CS}{\partial K^2} = \frac{\chi}{\eta}\left[\frac{1 - CS}{(2+K)^2} + \frac{1}{2+K}\frac{\partial CS}{\partial K}\right] < 0.$$

Interpretation

Now I consider the case where the size of the family does not affect adult spending (i.e., α, β, and χ are all zero). If the data supported this finding, then the proportion spent on the children would be estimated to be zero. Under the Rothbarth logic, if the adults are not found to reduce their spending as the number of children increases, then they are not spending on their children. However, it could be the case that the parents are reducing their consumption of nonadult goods or goods that are jointly consumed with the children to make room for the purchase of goods that will be solely consumed by the children. It is this observation that leads many to conclude that the Rothbarth methodology will tend to underestimate the true costs of children.

As α, β, and χ become negative or more negative, the children's share of spending rises. If it is believed that a per capita sharing of resources represents an upper limit (in reality, however, it is not because parents could choose to spend more on their children than they do on themselves),

then there should be a relationship between the effect of additional children (α,β,χ) and the effect of additional total spending (δ,γ,η). For the linear specification, the marginal reduction in spending on adult goods owing to additional children ($-\alpha$) should be less than the per capita total spending in the family with children times the effect of total spending on adult goods (δ):

$$-\alpha \le \delta \frac{TS_K}{2+K}.$$

For the log-linear specification, the logical restriction on the effect of additional children is identical to the linear specification but uses the corresponding parameters (β,γ):

$$-\beta \le \gamma \frac{TS_K}{2+K}.$$

Testing of these restrictions is difficult because they depend not solely on parameter values but also on the level of per capita total spending in the family. The log-log formulation of the adult-good-spending relationship has a clear advantage because the restriction on parameters can be made solely on the basis of parameter values. Specifically, the restriction that the estimate of the amount of sharing is less than or equal to per capita sharing can be stated as

$$-\chi \le \eta.$$

In my past empirical work, I have employed the following functional form for the log of adult spending:

$$ln(AG) = \phi + \pi \, ln(FS) + \eta \, ln\left(\frac{TS}{FS}\right)$$

which can be rewritten as

$$ln(AG) = \phi + (\pi - \eta) \, ln(FS) + \eta \, ln(TS).$$

The second formulation shows the equivalency between the two log-log specifications ($\chi = \pi - \eta$), and consequently, if χ is to be negative and less in absolute value than η, then

$$0 < \pi < \eta.$$

The reason for preferring this specification (holding per capita total spending constant) versus the specification holding total spending constant is the direct interpretation one can give to π. The children's share of total spending is equal to

$$CS = 1 - \left(\frac{2}{2+K}\right)^{1-\frac{\pi}{\eta}}.$$

The term π/η represents the economies of scale in consumption that will range from 0 to 1. When π/η is zero, then the children's share will be their per capita share, but as π/η increases, their share will decline until it equals 1, where, in fact, there are "-infinite" economies of scale in consumption —the children are "free."

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Mixtures of Functional Forms

Finally, there is a mixture of the log-linear and log-log specifications that have been employed or suggested to be used. Specifically, the Florida State researchers, in their estimation of the Engel model, have employed a model where the log of adult-good spending is linear in the number of children and linear in the log of either total spending or per capita total spending.

The formulation that is linear in family size (children) and linear in the log of total spending can be characterized as

$$ln(\ AG\ ) = \phi + \kappa K + \mu ln(TS) + \ln\left[H(Z, \varepsilon)\right] \ \ where \ \ \kappa < 0, \mu > 0$$

where the associated children's of total spending would equal

$$CS = 1 - e^{\frac{\kappa}{\mu}K}\ .$$

This functional form shares the same characteristic with the log-log specification, that the children's share of total spending is independent of the level of total spending. The effect of an additional child on the children's share is

$$\frac{\partial CS}{\partial K} = -\frac{\kappa}{\mu}e^{\frac{\kappa}{\mu}K} = -\frac{\kappa}{\mu}(\ 1 - CS\ ) > 0$$

which also implies, like the log-log specification, that the marginal effect of an additional child on the children's share will be negative:

$$\frac{\partial^2 CS}{\partial K^2} = -\left(\frac{\kappa}{\mu}\right)^2 (\ 1 - CS\ ) < 0\ .$$

A closely related functional form would also assume that the effect of family size is linear, but instead of holding total spending constant, it holds per capita spending constant:

$$ln\left(AG\right) = \phi + \nu K + \theta\ ln\left(\frac{TS}{FS}\right) + \ln\left[H(Z, \varepsilon)\right] \ \ \theta > 0\ .$$

The children's share of total spending that corresponds to this functional form is

$$CS = 1 - \left(\frac{2}{2 + K}\right) e^{\frac{\nu}{\theta}K}$$

which is an interesting mixture of the previous functional form and the log-log specification.

Given an expectation that there will be economies of scale for children's consumption, it can be anticipated that there is to be a positive income effect ($\theta > 0$), and consequently the effect of the number of children should be non-negative ($\nu \geq 0$). If n is zero, then the children's share is the

per capita share, but as n becomes positive, then the children's share of total spending declines, holding the number of children constant:

$$\frac{\partial CS}{\partial v} = -\frac{K}{\theta}\left(\frac{2}{2+k}\right)e^{\frac{v}{\theta}K} < 0$$
.

As the number of children increases, the children's share of total spending will increase:

$$\frac{\partial CS}{\partial K} = \left(1-CS\right)\left|\frac{1}{2+K}-\frac{v}{\theta}\right| > 0 \text{ if } v < \frac{\theta}{2+K}.$$

However, it is possible for the children's share to fall as the number of children rises. The marginal effect of an additional child depends on the number of children, but if the marginal effect is positive, then as the number of children increases, the marginal effect should decline:

$$\frac{\partial^2 CS}{\partial K^2} = -\frac{1-CS}{\left(2+K\right)^2} - \frac{\partial CS}{\partial K}\left[\frac{1}{2+K}-\frac{v}{\theta}\right] < 0.$$

Deciding Between Functional Forms

While this discussion has highlighted the impact of alternative functional form assumptions, the data also need to be examined to determine which specification is more consistent with the empirical evidence. From the analysis sample that I constructed for this report, I have plotted the amount of spending on adult goods versus the amount of total spending in husband-wife families with two children. To be included in any of the plots, the family must have had at least one dollar of spending on adult goods. The following three graphs show the relationship between these two variables for the linear model (Exhibit A-6-1), log-linear model (Exhibit A-6-2), and the log-log specification (Exhibit A-6-3).
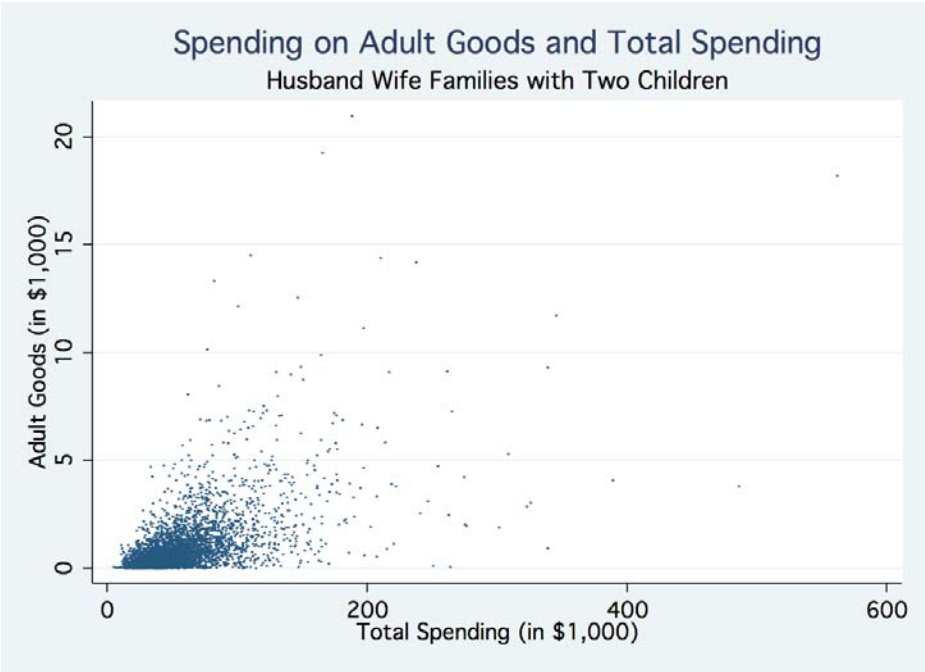
Exhibit A-6-1. Scatterplot of Linear Model

Spending on Adult Goods and Total Spending
Husband Wife Families with Two Children

Exhibit A-6-2. Scatterplot of Log-Linear Model

Log of Adult Goods and Total Spending
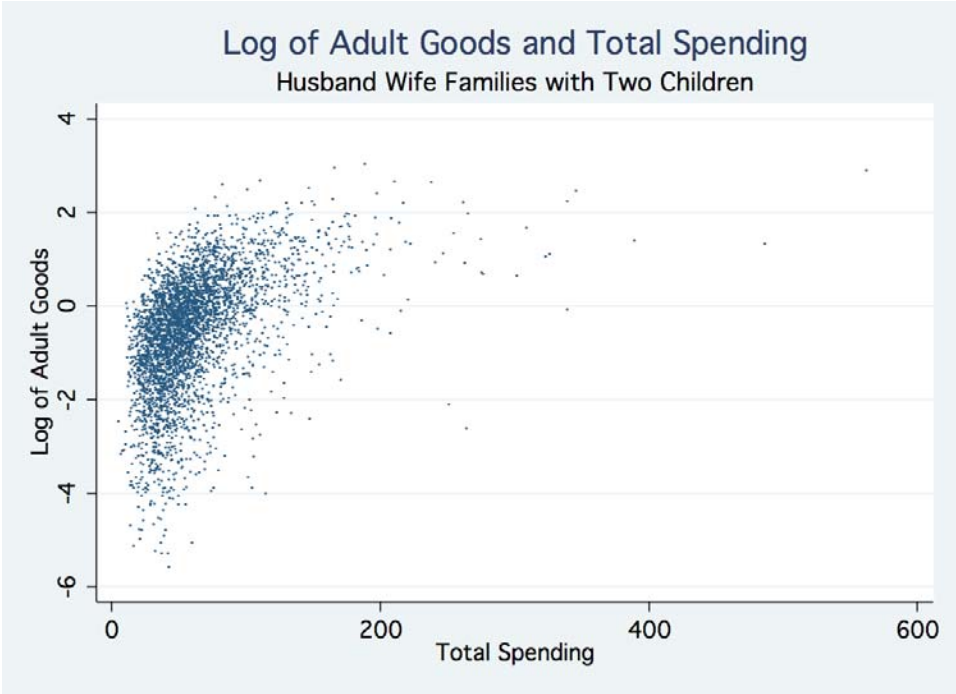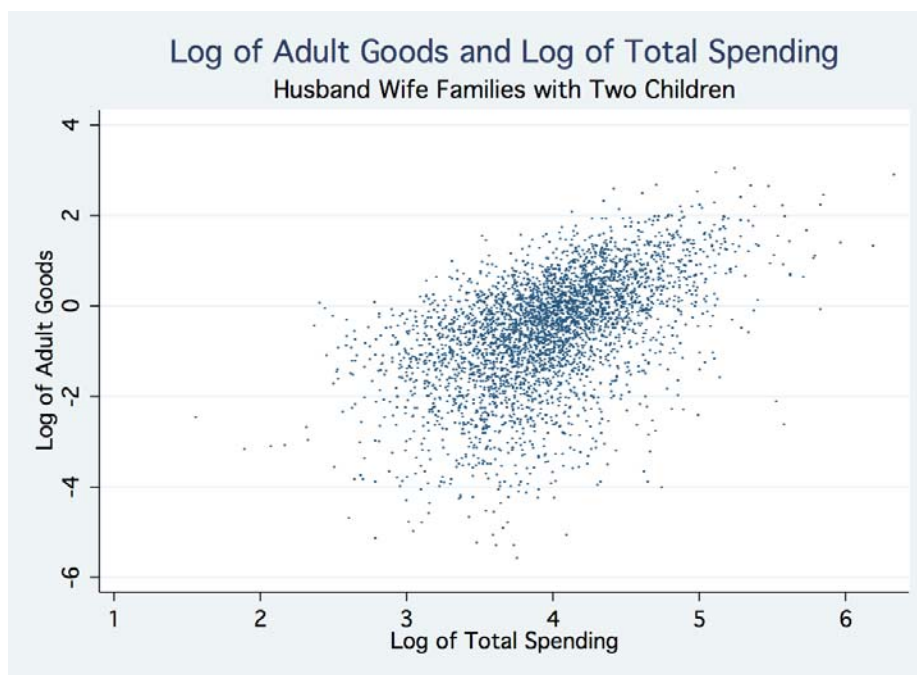Husband Wife Families with Two Children

Exhibit A-6-2. Scatterplot of Log-Log Model

While this is not a formal test, the scatterplots can be used to identify which model best corresponds to the assumptions of classical regression analysis. Specifically, some of the scatterplots may reflect more or less variation around a line.

In Exhibit A-6-1 (linear specification), it can be seen that estimates of the effect of total spending on adult goods will be difficult to estimate. Given that spending on adult goods is, in practice, limited to total spending, as total spending rises, not only does spending on adult goods rise but also the variance of spending on adult goods. Recall that the data will be used to estimate the effect of total spending on adult goods, and the more variation in its estimate will correspond to greater variation in the estimates of the children's share of total spending regardless of the precision in the estimates of the effect of children on spending.

Exhibit A-6-2 (log-linear specification) clearly displays a nonlinear relationship between the log of adult spending and the level of total spending in the family. Estimating a linear total spending effect would overestimate spending on adult goods at low and high levels of total spending. While quadratic terms of total spending could be included to account for the nonlinearity in the effect of total spending, perhaps a simple transformation of total spending would be preferable.

The log-log specification (Exhibit A-6-3) does just that and is the closest to depicting the relationship between the two goods that would have created by the assumptions of the classical linear regression model. While an eyeball inspection of this transformed data indicates there still may be a slight nonlinear effect of total spending on adult goods, the clustering of the scatterplot

suggests that this functional form specification is more consistent with the data than the other two specifications.

I would suggest that this provides sufficient evidence (and there is also evidence from similar scatterplots for other family types, such as childless couples and husband-wife families with different numbers of children, that produced the same results) to adopt the log-log specification. However, this evidence does not suggest which formulation of the basic log-log or mixture formulation is the most appropriate. To let the data tell this would require a complicated non-nested hypothesis test. I am not proposing to do such a test but reserve it for future research. Until that test is performed, I will examine the effect of alternative functional forms in the estimates.

Modifications to Basic Log-Log Specification

As it is probably evident from this discussion, I do have a clear favorite. It is the log-log specification, where total spending is represented by the log of per capita total spending and the number of children is reflected in the log of family size:

$$ln(AG) = \phi + \pi \ln(FS) + \eta \ln\left(\frac{TS}{FS}\right) + \ln\left[H(Z,\varepsilon)\right].$$

The children's share of total spending implicit from this functional form is

$$CS = 1 - \left(\frac{2}{2+K}\right)^{1-\frac{\pi}{\eta}}.$$

While this is a fairly simple model, one might question two features. One potential concern is that the level of total spending does not affect the children's share. The easiest fix is to include the square of the log of per capita total spending in the model:

$$ln(AG) = \phi + \pi \ln(FS) + \eta_1 \ln\left(\frac{TS}{FS}\right) + \eta_2\left(\ln\left(\frac{TS}{FS}\right)\right)^2 + \ln\left[H(Z,\varepsilon)\right].$$

If η_2 is found to be significantly different from zero, then the children's share will become a function of the level of total spending. Unfortunately, with the nonlinearity of the log of per capita spending, it is not possible to derive an explicit function for the children's share of total spending. However, it can be shown that the children's share will be negatively related to total spending (holding the number of children constant) if η_2 is negative (assuming that η_1 is positive, which means that families with higher levels of total spending will have smaller effects of increases in per capita total spending).

APPENDIX A-7

Estimate of Engel Model

The dependent variable *lnfshare* is the log of the budget share of food at home relative to the budget share of all other goods.

```
      Source |       SS       df       MS              Number of obs =    7846
-------------+------------------------------           F( 20,  7825) =  465.65
       Model | 1395.63468     20   69.781734           Prob > F      =  0.0000
    Residual | 1172.64315   7825   .14985855           R-squared     =  0.5434
-------------+------------------------------           Adj R-squared =  0.5422
       Total | 2568.27784   7845  .327377672           Root MSE      =  .38712

------------------------------------------------------------------------------
     lnfshare |      Coef.   Std. Err.      t    P>|t|     [95% Conf. Interval]
-------------+----------------------------------------------------------------
      lnfsize |   -.320982    .014496    -22.14   0.000    -.349398    -.292566
    lnpctout1 |  -.7523944   .0468379    -16.06   0.000    -.8442092   -.6605795
   lnpctout12 |   .0009566   .0080661      0.12   0.906    -.0148551    .0167684
        black |  -.0974046   .0176588     -5.52   0.000    -.1320205   -.0627887
        hnohs |   .0251504   .0171929      1.46   0.144    -.0085522    .0588531
     hcollege |   .0216351   .0111192      1.95   0.052    -.0001614    .0434317
        wnohs |   .0322901   .0188929      1.71   0.087    -.0047449    .0693252
     wcollege |  -.0202321   .0108728     -1.86   0.063    -.0415457    .0010815
      ww_wife |   .0231672   .0182457      1.27   0.204    -.0125993    .0589336
    wfulltime |  -.0171445   .0124728     -1.37   0.169    -.0415946    .0073056
     bothwork |  -.0650448   .0157649     -4.13   0.000    -.0959481   -.0341414
           ne |   .1403571   .0139411     10.07   0.000     .1130288    .1676853
        south |   .0813394   .0115763      7.03   0.000     .0586468     .104032
         west |   .0634614   .0128419      4.94   0.000     .0382878     .088635
         year |   .0084295   .0175166      0.48   0.630    -.0259076    .0427666
        y2004 |   .0212164   .0397248      0.53   0.593    -.0566548    .0990876
        y2005 |   .0629275   .0230096      2.73   0.006     .0178225    .1080325
        y2007 |   .0079238   .0221623      0.36   0.721    -.0355203    .0513679
        y2008 |   .0183518   .0421866      0.44   0.664    -.0643452    .1010487
    complete3 |  -.0018853   .0100589     -0.19   0.851    -.0216035    .0178329
        _cons |  -16.65141   35.13692     -0.47   0.636    -85.52916    52.22634
------------------------------------------------------------------------------
```

APPENDIX B

Sampling and Data Collection

Sampling Time Frame

The sampling time frame for the study included cases with filings and orders during the time period January 1, 2008, through December 31, 2008. This calendar year allowed for a sufficient amount of time to pass prior to data collection to ensure that action would be taken on the cases.

Sampled Counties

Collecting data required a review of case files. As a result, it was not feasible to include all 58 California counties. The 11 counties that were selected are the same counties that participated in the 2005 study.

Exhibit B-1. County Population and Orders Established Relative to State Totals				
	Population (2008 Estimate)[1]	Percentage of State Population	Number of Orders Established in 2008[2]	Percentage of Orders
Large counties				
Alameda	1,537,719	4.1%	2,106	2.1%
Fresno	928,066	2.4	5,246	5.3
Los Angeles	10,301,658	27.2	20,823	20.9
Santa Clara	1,829,480	4.8	3,234	3.2
San Diego	3,131,552	8.3	3,918	3.9
Medium-sized counties				
San Luis Obispo	268,290	0.7	959	1.0
Solano	424,397	1.1	1,319	1.3
Tulare	433,764	1.1	2,211	2.2
Small counties				
Amador	38,035	0.1	149	0.1
Siskiyou	45,725	0.1	235	0.2
Tehama	62,179	0.2	495	0.5
Sum of sampled counties	**19,000,865**	**50.1%**	**40,695**	**40.7%**
Rest of state	**18,883,127**	**49.9%**	**59,078**	**59.3%**

[1] Cal. Dept. of Finance, "E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change—January 1, 2008–2009" (May 2009).
[2] Cal. Dept. of Child Support Services, "Comparative Data for Managing Program Performance," *Federal Fiscal Year 2008* (Apr. 2009).

The large counties in the study are Alameda, Fresno, Los Angeles, Santa Clara, and San Diego. The medium-sized counties are San Luis Obispo, Solano, and Tulare. The small counties are Amador, Siskiyou, and Tehama. As shown in Exhibit B-1, the five large, three mid-sized, and three small counties participating in the study account for 50 percent of the state's population an`d 40.7 percent of the child support orders established in 2008.

Exhibit B-2 shows selected economic indicators from the sampled counties. Five of the 11 counties have unemployment rates that fall below the state average, and 2 have mean annual wages that are above the state average.

Exhibit B-2. Economic Profile of Selected Counties					
	Unemploy-ment Rate (2008 Annual)[1]	Mean Annual Wage[2]	25th Per-centile Hourly Wage[3]	Median Hourly Wage[4]	Annual Self-Sufficiency Standard (One Adult)[5]	Annual Self-Sufficiency Standard (One Adult + Preschooler)[6]
Large counties						
Alameda	6.2%	$52,438	$12.78	$20.47	$24,630	$43,974
Fresno	10.6	39,088	9.33	14.24	20,002	34,058
Los Angeles	7.5	46,470	10.52	16.83	26,430	44,394
Santa Clara	6.0	63,188	13.77	23.45	28,240	50,976
San Diego	6.0	46,285	10.87	17.07	27,450	45,516
Medium-sized counties						
San Luis Obispo	5.7	40,225	10.09	15.10	24,329	42,234
Solano	6.9	40,225	10.09	15.10	24,854	40,185
Tulare	10.8				18,163	31,380
Small counties						
Amador	7.7	40,091	10.60	15.74	21,956	39,830
Siskiyou	10.2	41,085	11.07	16.19	18,462	34,974
Tehama	9.1				19,292	36,392
State total	7.2%	$47,084	$10.85	$17.31	N. A.	$44,768

[1] State of Cal., Employment Development Dept., Labor Market Info publications, retrieved from *www.labormarketinfo.edd.ca.gov/?pageid=1026, www.labormarketinfo.edd.ca.gov/?pageid=152*, and *www.labormarketinfo.edd.ca.gov/?pageid=1007*.
[2] *Ibid.*
[3] *Ibid.*
[4] *Ibid.*
[5] Self-Sufficiency Standard for California, 2008, retrieved from *www.selfsufficiencystandard.org/docs/CA%202008%20All%20Families.xls.*
[6] *Ibid.*

Sample Sizes

The target sample size was 1,000 cases. This would be adequate to measure the deviation rates, changes in the deviation rates, and changes in the deviation rates by various subgroups.
The sample of 1,000 cases was weighted across the counties to create a proportional representation. Los Angeles County was separated from the very large and large counties because of its inordinate share. Los Angeles represents 38.3 percent of all cases in large and very large counties. Rather than use 38 percent in proportional sample, the sample used 20.9 percent because Los Angeles accounts for 20.9 percent of statewide establishments. For other sampled counties, the cases sampled represent the county's proportion of large, medium, or small counties. For example, 54.5 percent of all establishments occur in very large and large counties. Since Alameda, a large county, has 14.5 percent of establishments among the sampled counties, the weight for Alameda County is 7.9 percent (54.5 percent multiplied by 14.5 percent) of all targeted cases.

Exhibit B-3. Weighted Sampling of Cases by County							
	Orders Established (FFY 2008)[1]	Orders by County-Size Category	Statewide Total	Sampled Counties Total	Weighted Sample	Targeted Sample	Total Sample
Very large Los Angeles	20,823	38.3	20.9	51.2	209	250	20.9
Large counties							
Alameda	2,106	3.9	2.1	14.5	79	95	7.9
Fresno	5,246	9.7	5.3	36.2	197	236	19.7
Santa Clara	3,234	6.0	3.2	22.3	121	146	12.1
San Diego	3,918	7.2	3.9	27.0	147	177	14.7
Medium-sized counties							
San Luis Obispo	959	6.5	1.0	21.4	32	38	3.2
Solano	1,319	8.9	1.3	29.4	44	52	4.4
Tulare	2,211	14.9	2.2	49.3	73	88	7.3
Small counties							
Amador	149	1.5	0.1	17.0	17	20	1.7
Siskiyou	235	2.4	0.2	26.7	26	31	2.6
Tehama	495	5.1	0.5	56.3	55	66	5.5
Sum of sampled counties	**40,695**				**1,000**	**1,199**	
Rest of state	**59,078**						
State total	**99,773**						

Given the anticipation that some cases would have to be excluded because of missing data, the courts were asked to oversample by 20 percent. The target sample (including this 20 percent oversample) is shown in Exhibit B-4. Exhibit B-4 also shows the final number of cases per county that could be used in the final data analyses. As the table shows, only two counties, Siskiyou and Tehama, fell short of the minimum weighted sample goal.

Exhibit B-4. Minimum Weighted Sample Goals by County			
	Minimum Weighted Sample Goal	Targeted Sample (includes 20% oversample)	Cases Usable in Analysis
Large counties			
Los Angeles	209	250	262
Alameda	79	95	97
Fresno	197	236	237
Santa Clara	121	146	164
San Diego	147	177	180
Medium-sized counties			
San Luis Obispo	32	38	51
Solano	44	52	54
Tulare	73	88	97
Small counties			
Amador	17	20	20
Siskiyou	26	31	16
Tehama	55	66	48
Sum of sampled counties	**1,000**	**1,199**	**1,226**

Courts were instructed to evenly divide the sample between IV-D and non-IV-D cases. A 50/50 split was used in previous guideline studies. There was no clear evidence to support the substitution of a different split in this study.

Exhibit B-5 shows the number of cases in the analysis broken down by IV-D or non-IV-D status. The shaded cells indicate those counties where the sample goal was not met. Both Siskiyou and Tehama fell short of the number of non-IV-D cases that could be included. Although a precise breakdown of each county by IV-D status is not available, available data do indicate that both of these counties had only about 1,000 cases in 2008 that had never received TANF.[33] These would be the only potential non-IV-D cases, and, of course, some of these custodial parents might have

[33] Cal. Dept. of Child Support Services, *supra* note 155.

applied for IV-D services. In other words, a very small pool of potential non-IV-D cases was available for inclusion.

Exhibit B-5. Sample of Cases by County and IV-D Status				
	IV-D Minimum Goal	IV-D Cases Usable	Non-IV-D Minimum Goal	Non-IV-D Cases Usable
Large counties				
Los Angeles	104	129	104	132
Alameda	39	48	39	48
Fresno	98	119	98	117
Santa Clara	60	83	60	81
San Diego	73	92	73	88
Medium-sized counties				
San Luis Obispo	16	28	16	23
Solano	22	28	22	26
Tulare	36	47	36	50
Small counties				
Amador	8	11	8	9
Siskiyou	13	16	13	0
Tehama	27	33	27	15
Total	**496**	**634**	**496**	**589**

Exhibit B-6 shows the number of usable cases broken down by IV-D status and by new orders versus modifications. The sample consists almost entirely of new order cases. In this respect it differs from previous guideline studies, which had more comparable numbers of new cases and modifications.

Exhibit B-6. Sample of Cases by County, IV-D Status, and New Order or Modification						
	New Order Cases			**Modification Cases**		
	IV-D	Non-IV-D	Total	IV-D	Non-IV-D	Total
Very large and large counties						
Los Angeles	126	132	258	1	2	3
Alameda	45	43	88	4	2	6
Fresno	115	104	219	1	5	6
Santa Clara	71	69	140	11	14	25
San Diego	89	83	172	4	4	8
Medium-sized counties						
San Luis Obispo	25	20	45	3	3	6
Solano	28	25	53	0	0	0
Tulare	34	46	80	9	4	13
Small and very small counties						
Amador	4	5	9	7	3	10
Siskiyou	16	0	16	0	0	0
Tehama	28	13	41	5	1	6
Total	**581**	**540**	**1,121**	**45**	**38**	**83**

Exhibit B-7 shows the case file review definitions and instructions used by data collectors in the study counties. Cases were selected randomly.

The data collectors used a case file review tool (i.e., Exhibit B-8) to manually record information found in the case files. To protect confidentiality, the data collection instruments did not contain any personal identifying information (e.g., names, social security numbers) from the case files. Completed data collection forms were submitted to the contractor for data entry and analysis.

Exhibit B-7. Review of Statewide Uniform Child Support Guideline 2010
Case File Review Instructions and Definitions

SAMPLING AND VALID CASES

This study will consist of a random sample of cases filed between January 1, 2008 and December 31, 2008 in which child support was an issue. Cases will be pulled to examine if there is a child support order.

A current child support order is defined as an ongoing order for the support of one or more children that was calculated using the California child support guideline. A current child support order is not an arrears-only order or an order for payment of health insurance. These orders were not calculated using the guideline.

The study is limited to orders subject to the California child support guideline. Do not abstract Uniform Interstate Family Support Act (UIFSA) child support cases unless the order is established or modified by a California court. Also excluded are cases in which an order has not yet been established and ordered where the combined family support and child support could not be separated using the information in the case file.

If there are several orders within a year, please use the most recent one to complete the case file review form.

In most cases, the AOC project manager has provided the court liaison with an electronic spreadsheet of cases to pull. Courts have been asked to separate Title IV-D and non-Title IV-D cases. Courts will be asked to pull fifty percent IV-D and fifty percent non-IV-D cases. Courts have been instructed to pull three times the targeted sample quota to allow for cases that might not be usable because of missing information or if a case is unavailable at the time.

For instance, Tulare County has a targeted sample of 88 cases. The reviewer's goal will be to collect 44 completed forms for IV-D cases and 44 forms for non-IV-D cases. A case will not be considered reviewed unless the reviewer can complete the case file review form. If he/she exhausts the primary list of cases and still has not yet met the quota, he/she will move on to the secondary list of cases and the tertiary one, if necessary. In this example, the court would have pulled a total of 264 cases. If the reviewer still cannot fulfill his/her quota after reviewing cases from these three lists provided by the AOC, the court will then start going through the general list of randomized cases until the targeted sample has been met.

REQUIRED AND MISSING INFORMATION

The purpose of this study is to determine if the statewide child support guidelines are being followed and if not, why not. The following information MUST be specified, either on the mandatory forms or shown in a court-generated child support calculation printout:

- Parents' income, both gross and net;

- Amount of base child support ordered;
- Whether or not the child support ordered is the guideline amount; and
- If the child support ordered is above or below the guideline.

Do not guess on any of the above or make your own determination. It must be specified in the court file.

If the sampled court event is missing any of the above information, you may go back one court hearing to review documents for the required information pursuant to that establishment or modification of child support. If the case is a new order and there is no additional information, return that case to be refiled. Complete only Section I, Case Information, and Section IV, Missing Information. Again, this will not be counted in your case file quota. For example, if you are required to extract 100 cases, and you have twenty-five where you could only complete Sections I and IV, then you will need to collect data on twenty-five more cases to meet the quota. (Review the section on Sampling and Valid Cases for information on how to pull additional cases.)

Make a reasonable effort to find missing information. Keep in mind, though, that we have estimated that it will take approximately fifteen minutes to extract data for each valid case. If you find you are spending significantly more time than that to complete a valid case because you are hunting through the file for missing information, move on.

Court liaisons were asked to pull three times the targeted sample. For example, if your quota of completed cases was 100, the court contact was asked to pull 300 cases for review. If you have reviewed all of the files pulled for you by the court liaison and you still have not reached your quota of valid, complete cases, you will need to ask your court contact to pull more files for you, as specified by the AOC protocol. You will need to estimate how many more case files to pull for you to meet your case quota. Remember, you must attempt to complete fifty percent of your total quota as IV-D and fifty percent as non-IV-D cases.

AOC project manager will provide instructions on where to send completed case file review forms.

DEFINITIONS
SECTION I: CASE INFORMATION

1. County: Specifies the county that entered the child support order. This must be a county in California among the eleven counties selected for this study: Alameda, Amador, Fresno, Los Angeles, San Diego, San Luis Obispo, Santa Clara, Siskiyou, Solano, Tehama, and Tulare. If the order originates from another state, it does not qualify for the case file review.

2. Order Date: This is the date the order was entered. It must be between January 1, 2008, and December 31, 2008, to qualify for the case file review.

3. Case #: This is the number assigned by the court.

4. Type of Case

     Title IV-D Case: Case in which IV-D services for current child support were being provided at the time the order was entered, indicated by local child support agency attorney appearance, or that it is an "in-and-out" order (FL-632 Notice Regarding Payment of Support). If an independent action is filed (FL-645 Notice to Local Child Support Agency of Intent to Take Independent Action to Enforce Support Order), it is still considered a IV-D case. A IV-D case includes a family law case or Uniform Parentage Act (UPA) case in which the local child support agency has intervened.

     Non-Title IV-D Case: Case in which the local child support agency was not providing IV-D services for current child support at the time the order was entered.

5. New Order or Modification

     New Order: The initial order or provision in a judgment for child support (since it could be a default judgment and not the result of a motion). A new order would include any order, including orders at further hearings that were the result of the initial request for child support. There is no motion to modify. The motion is to enter an order.

     Modification: Any order entered subsequent to the entry of the initial child support order (new order – see above). There should be a motion or a stipulation to modify in the case file.

6. Order Type

     Default: No responsive papers filed, and no court appearance by respondent/defendant, and no written stipulation or verbal stipulation taken on record. If the order after hearing has the "Uncontested" box checked off, it should also be categorized under "Default." It is *uncontested* if the order after hearing has the "Uncontested" box checked off.

     Contested: Responsive papers filed and/or court appearance and no written stipulation or verbal stipulation taken on record. The different scenarios are as follows:
Responsive papers filed AND court appearance AND no written or verbal stipulation taken on record;

Responsive papers filed AND no court appearance AND no written or verbal stipulation taken on record; or
No responsive papers filed AND court appearance AND no written or verbal stipulation taken on record.

     Stipulation: There must be a signed stipulation or order indicating that a stipulation was taken on record.

SECTION II: PARENT INFORMATION

7. Approximate % of Child's Time With Parent: This refers to the percentage of time used to calculate the order amount.

8. Imputed Income: Income not based on actual earnings but based upon the court's determination of a party's ability to earn. Income may be imputed for either parent.

9. Presumed Income: No information is available regarding a party's actual income or income history and the court bases its order on the provision of Family Code section 5002.

10. Parents Represented: Answer yes only if represented by private counsel. Local child support agency is not representing parent.

11. Amount of Base Support Ordered: Amount of child support ordered exclusive of additional support as defined in Family Code sections 4061-4062. Any order for $0 or a determination of no ability to pay child support should still be considered a child support order. If there is a "no ability" finding, enter $0.

Other terms follow what are in Judicial Council Forms.

**Exhibit B-8. Review of Statewide Uniform Child Support Guideline 2010
Case File Review Form**

SECTION I: CASE INFORMATION

1. County: _____ **2. Order Date:** ____ / ____ / _____
 (Must Be Between 1/1/2008 to 12/31/2008)

3. Case #: _____

4. Type of Case (Check one): ☐ Title IV-D Case ☐ Non-Title IV-D Case

5. New Order or Modification? (Check one): ☐ New Order ☐ Modification

6. Order Type (Check one): ☐ Default ☐ Contested ☐ Stipulation
If order type is Default, is it uncontested? (Check one): ☐ Yes ☐ No

SECTION II: PARENT INFORMATION

7. Number of Children Subject to This Order (Circle one): 1 2 3 4 5 6 7 8 9 10+

For questions 8 through 19, provide an answer for each parent considered in the order calculation. *(Y = Yes, N = No, DK = Don't Know)*	MOTHER			FATHER		
8. Approximate % of Child's Time With Parent	%			%		
9. Is income imputed? (Circle one per column)	Y	N	DK	Y	N	DK
10. Is income presumed? (Circle one per column)	Y	N	DK	Y	N	DK
11. Monthly Gross Income (If imputed, enter that amount. If unknown or presumed, enter DK. This is a <u>required</u> field.)	$ _____			$ _____		
12. Monthly Net Income (If imputed, enter that amount. If unknown or presumed, enter DK. This is a <u>required</u> field.)	$ _____			$ _____		
13. Was a hardship deduction applied? (Circle Yes or No. If Yes, check the reason for the hardship deduction and provide the amount by reason.) a. ☐ Other Minor Children b. ☐ Extraordinary Medical Expenses c. ☐ Catastrophic Losses d. ☐ Reason Not Stated	Y N a. $ _____ b. $ _____ c. $ _____ d. $ _____			Y N a. $ _____ b. $ _____ c. $ _____ d. $ _____		

14. In arriving at net income, was there a deduction for court-ordered child support, court-ordered spousal support, or voluntarily paid child support that was not part of a hardship deduction? (Circle one per column. If Yes, enter number of children considered in the child support being subtracted.)	Y N DK
	If Yes, # of
	children = ____
				Y N DK
				If Yes, # of
				children = ____		

15. Which parent is the obligor? (Check one)	☐			☐		

16. Does the obligor qualify for a low-income adjustment? (Circle one. To qualify, obligor net monthly income must be $1,000 or less.)	Y N DK	Y N DK
17. Was the low-income adjustment granted? (Circle Yes or No. Only complete this for the parent that is the obligor.) If Yes, enter the monthly adjustment amount. If No, was a reason given? (Circle Yes or No)	Y N $ _____ Y N	Y N $ _____ Y N
18. Is there an income and expense declaration or simplified financial statement completed for the parent? (Circle Yes or No)	Y N	Y N
19. Is parent represented by an attorney? (Circle Yes or No)	Y N	Y N

SECTION III: CHILD SUPPORT ORDER

20. Amount of Base Support Ordered (Check and complete one. Note: A $0 order is still a child support order and a "no ability" finding equals a $0 child support order.)

☐ $ _____ Per Month

☐ If not per month, please specify here: $ _____ Per _____

☐ Reserved

21. Is this the guideline amount? (Check one. This is a <u>required</u> field.) ☐ Yes ☐ No ☐ Don't Know
Specify guideline amount: $ _____ Per _____

22. If No to question 21, was the amount agreed to/ordered to (Check one. This is a <u>required</u> field.):
☐ Above Guideline ☐ Below Guideline

23. If No to question 21, what is the rebutting factor? (Check all that apply)

☐ (1) Sale of Family Residence is Deferred

☐ (2) Extraordinary High Income

☐ (3) Parent Not Contributing Commensurate to Custodial Time

☐ (4I) Different Time-Sharing Arrangements

☐ (4II) Equal Custody, Unequal Housing

☐ (4III) Child Has Special Needs

☐ Stipulation

☐ Unjust or Inappropriate

☐ Other (Specify): _____

☐ Unstated

24. Additional Child Support	Mother Monthly Amount or % (Circle one: $ or %)	Father Monthly Amount or % (Circle one: $ or %)
a. Work- or Education-Related Child Care Costs		
b. Child's Uninsured Health Care Costs		
c. Child's Education Costs or Special Needs		
d. Travel Expenses for Visitation		
e. Other (Specify): _____		

25. Is there an order to provide medical insurance? (Check one) ☐ Yes ☐ No
If Yes, who is ordered to provide it? (Check all that apply) ☐ Mother ☐ Father ☐ Both

26. Is there any order for the apportionment of uninsured medical costs? (Check one) ☐ Yes ☐ No
If Yes, is it (Check one): ☐ 50/50 ☐ Pro Rata
27. Is there a finding that medical insurance is not available at a reasonable cost to mother at this time? (Check one) ☐ Yes ☐ No
28. Is there a finding that medical insurance is not available at a reasonable cost to father at this time? (Check one) ☐ Yes ☐ No
SECTION IV: MISSING INFORMATION
☐ No documents on result of calendared child support court event initially sampled (e.g., continuance, off calendar)
☐ Parents' income not specified
☐ Amount of child support not specified
☐ Guideline amount not specified
☐ Above or below guideline not specified

Additional Comments/Remarks (Attach additional notes, if needed):

Form Completed By: _____

APPENDIX C

Calculation of State Guideline Comparisons

State guideline amounts for four case examples were calculated for this study. In Case A, the obligor's income is unknown, the obligee's income is zero, and there is one child. In this case, the income presumption policy of a state's guideline is the basis of the obligor's income. If the state's guideline (or statute in California) does not specify the amount of income to be presumed, the state's minimum wage is used. If a state's guideline does not specify the hours worked in the provision, a 40-hour work week is used.

Case B is the same as Case A except for one difference. It assumes that the obligor works 40 hours per week at the current federal minimum wage of $7.25 per hour. In other words, there is no variation in the obligor's income among states on account of differences in state provisions for income presumption, state minimum wage, or both. Other assumptions of Case A and Case B are identical; that is, the obligee's income is zero and there is one child.

Case C also assumes that the obligor works full-time at federal minimum wage. However, Case C considers the guideline amount for two children rather than one child, as in Case B. Case D also assumes that the obligor works full-time at federal minimum wage. Case D considers the guideline amount for five children.

	Internet Address of Guideline Calculator or Guideline	Automated or Manual Calculation	Monthly Income Used in Case A	Other Assumptions
		Exhibit C-1. Assumptions and Sources Used to Calculate State Guideline Amounts		
AL	*/www.alacourt.gov/pdfppt/rule 32.2009.pdf*	Manual	$1,256 gross (full-time, federal min. wage)	
AK	*https://webapp.state.ak.us/cssd/guidelinecalc.jsp*	Automated	$1,342 gross (full-time, state min. wage of $7.75/hr)	No income from the Alaska Permanent Dividend Fund; annualize income
AZ	*http://supreme.state.az.us/childsup/pdf/arizsup22.pdf*	Automated	$1,256 gross (full-time, federal min. wage)	Mark mother as custodial parent; 0 children age 12 or over; adjustment percent is 0
AR	*http://courts.state.ar.us/pdf/child_monthly20070614.pdf*	Manual	$1,097 net (full-time, federal min. wage after taxes)	
CA	*https://www.cse.ca.gov/ChildSupport/cse/guidelineCalculator*	Automated	$1,386 net (full-time, state min. wage of $8.00/hr)	0 timesharing
CO	*www.courts.state.co.us/Forms/Excel/childsupportworksheets1.xls*	Automated	$1,256 gross (full-time, federal min. wage)	
CT	*www.alllaw.com/calculators/Childsupport/connecticut/*	Automated	$1,429 net (full-time, state min. wage of $8.25/hr)	
DC	*http://csgc.oag.dc.gov/application/main/Custody.aspx*	Automated	$1,429 gross (full-time, state min. wage of $8.25/hr)	Sole custody; mother custodial parent; annualize income
DE	*http://courts.delaware.gov/support%20calculator/page.asp?Submit=Continue*	Automated	$1,256 gross (full-time, federal min. wage)	Calculator automatically converts to net income
FL	*www.alllaw.com/calculators/Childsupport/Florida/*	Automated	$1,097 net (full-time, federal min. wage after taxes)	
GA	*https://cscalc.gaaoc.us/CSCDownloadableFiles/Child_Support_Worksheet_and_Schedules.xls*	Automated	$1,256 gross (full-time, federal min. wage)	Use CS Worksheet Tab
HI	*http://hawaii.gov/jud/Oahu/Family/CSG701.xls*	Automated	$1,256 gross (30-hour work week, federal min. wage)	Mom is custodial parent; child-care costs and health insurance for children set at 0; calculator automatically converts to net income
ID	*www.isc.idaho.gov/rules/icsg*	Manual	$1,256 gross (full-	

	08.pdf		time, federal min. wage)	
IL	*www.ilchildsupport.com/calculating.html*	Manual	$1,386 net (full-time, state min. wage of $8.00/hr)	
IN	*https://mycourts.in.gov/csc/parents/Default.aspx*	Automated	$1,256 gross (full-time, federal min. wage)	Make up any date of birth for children (under age 12); "no" adjustments; father 0–51 overnights, mother 184+**[days?]**; weekly income
IA	*https://secureapp.dhs.state.ia.us/estimator/estimator.aspx*	Automated	$1,256 gross (full-time, federal min. wage)	Calculator automatically converts to net income
KS	*www.kscourts.org/Rules-procedures-forms/Child-support-guidelines/2010-Guidelines-Final.pdf*	Manual	$1,256 gross (full-time, federal min. wage)	
KY	Worksheet found at: *http://chfs.ky.gov/NR/rdonlyres/B369CDE7-C463-425C-B257-BF78E954EBB6/0/CS71REVISED.doc* Guidelines table at: *http://chfs.ky.gov/NR/rdonlyres/EDFA712A-D535-4368-B61B-D9B9F12F1F5B/0/GuidelinesTable.doc*	Manual	$1,256 gross (full-time, federal min. wage)	
LA	Worksheet found at: *www.dss.state.la.us/assets/docs/searchable/OFS/Overview/SES/Ses_OBL_A_330.PDF* Schedule found at: *www.legis.state.la.us/lss/lss.asp?doc=107384*	Manual	$1,256 gross (full-time, federal min. wage)	
ME	*https://lawhelpinteractive.org/login_form?template_id=template.2009-01-02.1198670084*	Automated	$1,299 gross (full-time, federal min. wage)	Make up any date of birth for children (under age 12); "no" adjustments; neither provide health insurance; annualize income
MD	Worksheet found at: *www.dhr.state.md.us/csea/download/worksheet_a.pdf* Schedule found at: *www.dhr.state.md.us/csea/help.htm*	Manual	$1,256 gross (full-time, federal min. wage)	
MA	*www.dor.state.ma.us/apps/w*	Automatic	$1,387 gross (full-	Weekly income

			time, federal min. wage)	
MI	*www.courts.mi.gov/scao/servi ces/focb/mcsf.htm*	Manual	$1,282 net (full-time, state min. wage of $7.40/hr)	Weekly income
MN	*http://childsupportcalculator.d hs.state.mn.us/Calculator.asp x*	Automatic	$1,884 gross (full-time, 150% of state min. wage of $7.25/hr)	
MS	*www.mdhs.state.ms.us/csem dhs.html*	Manual	$1,256 gross (full-time, federal min. wage)	
MO	*www.co.st-louis.mo.us/circuitcourt/fcform s/form14-2005slco.pdf*	Automatic	$1,256 gross (full-time, federal min. wage)	Make up any date of birth for children (under age 12)
MT	Worksheet found at: *www.dphhs.mt.gov/csed/pack et/guidelines.pdf* Tables found at: *www.dphhs.mt.gov/csed/pack et/guidelinestables2009.pdf*	Manual	$1,097 net (full-time, federal min. wage after taxes)	
NE	Worksheet found at: *www.supremecourt.ne.gov/for ms/worksheet1.pdf* Tables found at: *www.supremecourt.ne.gov/for ms/childsup-table.pdf*	Manual	$1,097 net (full-time, federal min. wage after taxes)	
NV	*http://leg.state.nv.us/NRS/NR S-125B.html*	Manual	$1,308 gross (full-time, state min. wage of $7.55/hr)	
NH	*www4.egov.nh.gov/DHHS_ca lculator/calc_form.asp*	Automatic	$1,256 gross (full-time, federal min. wage)	
NJ	Worksheet found at: *www.judiciary.state.nj.us/csg uide/ix-c.pdf* Schedule found at: *www.judiciary.state.nj.us/csg uide/app9f.pdf*	Manual	$1,097 net (full-time, federal min. wage after taxes)	Weekly income
NM	*www.hsd.state.nm.us/csed/gu idelines.html*	Manual	$1,299 gross (full-time, state min. wage of $7.50/hr)	
NY	*www.nyc.gov/html/hra/html/di rectory/child_support_calculat or.shtml*	Automatic	$1,256 gross (full-time, federal min. wage)	Annualize income
NC	*https://nddhacts01.dhhs.state .nc.us/WorkACalcSoleCustod y.jsp*	Automatic	$1,256 gross (full-time, federal min. wage)	
ND	*www.ndcourts.com/chldspt/C SCalculator.aspx*	Automatic	$1,256 gross (full-time, federal min. wage)	Standard calculation; annualize income; "no" imputed income or add-ons, "no" to other

				options; calculator automatically converts to net income
OH	*www.co.franklin.oh.us/commissioners/csea/pdf/CSX2-10.pdf*	Manual	$1,264 gross (full-time, state min. wage of $7.30/hr)	Annualize income
OK	*www.okdhs.org/programsandservices/ocss/docs/computation.htm*	Automatic	$1,256 gross (full-time, federal min. wage)	
OR	*https://justice.oregon.gov/guidelines/*	Automatic	$1,455 gross (full-time, state min. wage of $8.40/hr)	Father has less parenting time
PA	*www.humanservices.state.pa.us/CSWS/CSWS_controller.aspx?SelectionIdBottom=7&PageId=CSWS/support_estimator_entry_form.ascx*	Automatic	$1,256 gross (full-time, federal min. wage)	Calculator automatically converts to net income
RI	*www.cse.ri.gov/downloads/admin_order2007_03.pdf*	Manual	$1,282 gross (full-time, state min. wage of $7.40/hr)	
SC	*www.state.sc.us/dss/csed/calculator.htm*	Automatic	$1,256 gross (full-time, federal min. wage)	Mother has custody
SD	*www.state.sd.us/applications/SS17PC02CAL/SupportCalc1.asp*	Automatic	$1,256 gross (full-time, federal min. wage)	Calculator automatically converts to net income
TN	*http://tennessee.gov/humanserv/is/Documents/1240-02-04.pdf* Can download calculator at: *www.state.tn.us/humanserv/is/isdownloads.html*	Manual or automatic	$3,132 gross (median annual earnings of $37,589)	
TX	*www.co.travis.tx.us/records_communication/law_library/pdfs/calculator.pdf*	Automatic	$1,097 net (full-time, federal min. wage after taxes)	
UT	*www.utcourts.gov/childsupport/calculator?func=sole_custody&is_modify=no&order_date=1/1/2009*	Automatic	$1,256 gross (full-time, federal min. wage)	
VT	*http://dcf.vermont.gov/sites/dcf/files/pdf/ocs/GuidelinesSoleandSplit.pdf* Can download calculator at: *http://dcf.vermont.gov/ocs/parents/guidelines_calculator*	Manual or automatic	$3,138 gross (150% of the state's average wage as of Feb. 2009)	Calculator automatically converts to net income
VA	*www.dss.virginia.gov/family/dcse_calc.cgi*	Automatic	$1,256 gross (full-time, federal min. wage)	
WA	*www.courts.wa.gov/ssgen/*	Automatic	$1,481 gross (full-time, state min. wage of $8.55/hr)	Proceed to old version; use child's age under 12; "w/ mother"; calculator

				automatically converts to net income
WV	*www.legis.state.wv.us/WVCODE/code.cfm?chap=48&art=13*	Manual	$1,256 gross (full-time, federal min. wage)	
WI	*http://dcf.wisconsin.gov/bcs/pdf/basic_guideline_table.pdf*	Manual	$1,099 gross (35-hour work week, state min. wage of $7.25/hr)	
WY	*http://legisweb.state.wy.us/statutes/titles/Title20/T20CH2AR3.htm*	Manual	$1,097 net (full-time, federal min. wage after taxes)	

APPENDIX D

Project Staff Biographies

Jane Venohr, Center for Policy Research (CPR) Economist and Research Associate. Jane Venohr was the guideline review project manager. Dr. Venohr is one of the nation's leading experts on child support guidelines and has worked with more than 30 states to develop and review their child support guidelines in the last 20 years. Since joining CPR in 2007, Venohr has led child support guidelines projects for 18 states, directs the Texas *Niños Sanos* evaluation, and has conducted numerous research projects on child support and child care for state and federal government agencies and foundations. Dr. Venohr holds a PhD in economics from the University of Colorado.

Jessica Pearson, CPR Director. Jessica Pearson was the assistant project manager for this guideline review. Dr. Pearson is a nationally recognized expert on child support issues. She was the lead researcher for the national evaluation of the Access and Visitation Demonstration Projects and the Responsible Fatherhood Demonstration Projects. She has worked closely with many state and local child support agencies on the design and successful implementation and evaluation of major demonstration projects dealing with hospital-based paternity, incarcerated noncustodial parents, child support arrears, victims of domestic violence, responsible fatherhood, and numerous enforcement remedies and interventions aimed at improving child support collections. Dr. Pearson has been published extensively on child support topics and is a regular presenter at national conferences for the child support and judicial communities. Dr. Pearson holds a PhD in sociology from Princeton University.

Nancy Thoennes, CPR Associate Director. Nancy Thoennes analyzed case file data. Dr. Thoennes has been the coprincipal investigator for virtually every child support project CPR has conducted, with the exception of the guidelines projects. One of her most substantial data analysis activities was the analysis of The Violence Against Women Survey, which involved telephone interviews with national probability samples of 8,000 women and 8,000 men to gather information on the extent, nature, and consequences of various forms of violence, including partner violence, sexual assault, and the first national study on stalking. Dr. Thoennes holds a PhD in sociology from the University of Denver.

Rasa Kaunelis, CPR Research Associate. Rasa Kaunelis managed and analyzed case file data for this guideline review. She also managed and analyzed the data for the Arizona child support guidelines review. She is currently working with the child support workforce agency, and court in Arapahoe County, Colorado, to collect information on unemployed noncustodial parents who are referred to an innovative seek-work program. She is also monitoring data collection in a multisite investigation of the effects of outreach to pregnant and new parents about paternity and child support. Ms. Kaunelis was a key researcher on a study for the National Campaign to Prevent Teen and Unplanned Pregnancy on methods of outreach to young men about unplanned

pregnancy. She has worked with child support agencies; Women, Infants, and Children (WIC) programs; workforce agencies; and courts in multiple settings. Ms. Kaunelis holds an MPA from the University of Colorado.

Carly Everett, CPR Research Associate. Carly Everett conducted extensive qualitative research and literature searches and assisted with calculating child support amounts under various case scenarios, focus groups, and writing the report for this guideline review. Ms. Everett joined CPR in January**[2010?]**. Prior to that time, she was an attorney in Indianapolis, Indiana, practicing in a variety of areas, including mental health, family, medical malpractice, competitive business, bankruptcy, labor and employment, and tax. Ms. Everett also conducts nationwide, extensive research regarding effective practices in streamlining child support modification procedures. She additionally provides back-up, general assistance for many of CPR's projects, including prisoner reentry programs and medical support programs. Ms. Everett holds a JD from Indiana University and is on track to obtain an MPA. from University of Colorado in May 2011.

David Betson, Economist. David Betson conducted original research on child-rearing costs (e.g., the cost of raising children in California) for this guideline review (see Appendix A). Dr. Betson's measurements of child-rearing expenditures form the basis of almost 30 state child support guidelines, which is more than any other measurement. He conducted his original research on child-rearing expenditures for the U.S. Department of Health and Human Services in 1990 using five different estimation techniques. His 1990 research fulfilled a congressional mandate and was aimed to assist states with the development and review of state child support guidelines. Dr. Betson is also a member of the National Academy of Science and is affiliated with the Institute for Research on Poverty at the University of Wisconsin. Some of Dr. Betson's most recent research concerns the impact of the WIC program on baby formula prices. He holds a PhD in economics from the University of Wisconsin and is an associate professor of economics and the former director of the Hesburgh Program in Public Service at the University of Notre Dame.

Paul Legler, Research Associate. Paul Legler assisted with the focus groups, the literature review on low-income families, and other analysis. Most of Mr. Legler's work over the past eight years has focused on developing more sensible child support policies for low-income parents. Currently, Mr. Legler is the project director for a demonstration project in Hennepin County, Minnesota, that will provide parenting education, access, and visitation services, employment assistance, and other assistance to parents with new orders. Some of Mr. Legler's other child support projects include the Memphis Initiative to Promote Parental Responsibility and Healthy Marriages (Tennessee 2006); Breaking Down Barriers to Voluntary Paternity Establishment (Minnesota 2005); Strengthening Families, which assisted custodial and noncustodial parents with family issues at the time of TANF applications (Hawaii 2006–2007); and Low-Income Fathers Pilot Demonstration Project (Louisiana 2004–2005). Mr. Legler is the author of *Low-Income Fathers and Child Support: Starting off on the Right Track*, published through the Annie E. Casey Foundation. Mr. Legler holds a JD from the University of Minnesota

and an MPA from Harvard University, John F. Kennedy School of Government. He currently is the president of Innovative Social Policy, LLC.

Kelli Kreycik, CPR Office Manager. Kelli Kreycik assisted with data entry and project management. Ms. Kreycik holds a BS degree from the University of California, Berkeley.

David Youngstrom, CPR Research Assistant. David Youngstrom assisted with data entry for the guideline's case file review. Mr. Youngstrom has worked with CPR since 2009, performing various tasks including assisting with data entry and phone interviews with noncustodial fathers in Tennessee and Arapahoe County, Colorado. He also works with Greenprint Denver to promote energy efficiency and green living. Mr. Youngstrom previously worked as the national account manager for the Ingram Book Company and Baker & Taylor, the two largest book wholesalers in the country.

Nick Anderson, CPR Research Assistant. Nick Anderson assisted with the guideline review by calculating child support amounts for several states under various case scenarios. He also assisted with data entry. Mr. Anderson holds a BS degree from the University of Colorado.

Marsi Buckmelter, Editor. Marsi Buckmelter holds a BA in English and an MS in technical communication, both from the University of Colorado.

APPENDIX E

Acknowledgments