

CHAPTER 518A

CHILD SUPPORT

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518A.28 PROVIDING INCOME INFORMATION.

(a) In any case where the parties have joint children for which a child support order must be determined, the parties shall serve and file with their initial pleadings or motion documents, a financial affidavit, disclosing all sources of gross income for purposes of section 518A.29. The financial affidavit shall include relevant supporting documentation necessary to calculate the parental income for child support under section 518A.26, subdivision 15, including, but not limited to, pay stubs for the most recent three months, employer statements, or statements of receipts and expenses if self-employed. Documentation of earnings and income also include relevant copies of each parent's most recent federal tax returns, including W-2 forms, 1099 forms, unemployment benefit statements, workers' compensation statements, and all other documents evidencing earnings or income as received that provide verification for the financial affidavit. The state court administrator shall prepare a financial affidavit form that may be used by the parties for disclosing information under this section. The parties may provide the information required under this section in a substantially similar affidavit form.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) If a parent under the jurisdiction of the court does not serve and file the financial affidavit with the parent's initial pleading or motion documents, the court shall set income for that parent based on credible evidence before the court or in accordance with section 518A.32. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044. The court may consider credible evidence from one party that the financial affidavit submitted by the other party is false or inaccurate.

(d) If the court determines that a party does not have access to documents that are required to be disclosed under this section, the court may consider the testimony of that party as credible evidence of that party's income.

History: 2007 c 118 s 2

518A.32 POTENTIAL INCOME.

Subdivision 1. **General.** This section applies to child support orders, including orders for past support or reimbursement of public assistance, issued under this chapter, chapter 256, 257, 518B, or 518C. If a parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis, or there is no direct evidence of any income, child support must be calculated based on a determination of potential income. For purposes of this determination, it is rebuttably presumed that a parent can be gainfully employed on a full-time basis. As used in this section, "full time" means 40 hours of work in a week except in

those industries, trades, or professions in which most employers, due to custom, practice, or agreement, use a normal work week of more or less than 40 hours in a week.

[For text of subd 2, see M.S.2006]

Subd. 3. Parent not considered voluntarily unemployed, underemployed, or employed on a less than full-time basis. A parent is not considered voluntarily unemployed, underemployed, or employed on a less than full-time basis upon a showing by the parent that:

(1) the unemployment, underemployment, or employment on a less than full-time basis is temporary and will ultimately lead to an increase in income;

(2) the unemployment, underemployment, or employment on a less than full-time basis represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child; or

(3) the unemployment, underemployment, or employment on a less than full-time basis is because a parent is physically or mentally incapacitated or due to incarceration, except where the reason for incarceration is the parent's nonpayment of support.

[For text of subd 4, see M.S.2006]

Subd. 5. Caretaker. If a parent stays at home to care for a child who is subject to the child support order, the court may consider the following factors when determining whether the parent is voluntarily unemployed, underemployed, or employed on a less than full-time basis:

(1) the parties' parenting and child care arrangements before the child support action;

(2) the stay-at-home parent's employment history, recency of employment, earnings, and the availability of jobs within the community for an individual with the parent's qualifications;

(3) the relationship between the employment-related expenses, including, but not limited to, child care and transportation costs required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;

(4) the child's age and health, including whether the child is physically or mentally disabled; and

(5) the availability of child care providers.

This subdivision does not apply if the parent stays at home only to care for other non-joint children.

Subd. 6. Economic conditions. A self-employed parent is not considered to be voluntarily unemployed, underemployed, or employed on a less than full-time basis if that parent can show that the parent's net self-employment income is lower because of economic conditions that are directly related to the source or sources of that parent's income.

History: 2007 c 118 s 3-6

518A.35 GUIDELINE USED IN CHILD SUPPORT DETERMINATIONS.

[For text of subs 1 and 2, see M.S.2006]

Subd. 3. Income cap on determining basic support. (a) The basic support obligation for parents with a combined parental income for determining child support in excess of the income limit under subdivision 2 must be the same dollar amount as provided for the parties with a combined parental income for determining child support equal to the income limit under subdivision 2.

(b) A court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subdivision 2 if it finds that a child has a disability or other substantial, demonstrated need for the additional support for those reasons set forth in section 518A.43 and that the additional support will directly benefit the child.

[For text of subd 4, see M.S.2006]

History: 2007 c 54 art 5 s 15

518A.39 MODIFICATION OF ORDERS OR DECREES.

[For text of subd 1, see M.S.2006]

Subd. 2. Modification. (a) The terms of an order respecting maintenance or support may be modified upon a showing of one or more of the following, any of which makes the terms unreasonable and unfair: (1) substantially increased or decreased gross income of an obligor or obligee; (2) substantially increased or decreased need of an obligor or obligee or the child or children that are the subject of these proceedings; (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40, or chapter 256J or 256K; (4) a change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics; (5) extraordinary medical expenses of the child not provided for under section 518A.41; (6) a change in the availability of appropriate health care coverage or a substantial increase or decrease in health care coverage costs; (7) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses; or (8) upon the emancipation of the child, as provided in subdivision 5.

(b) It is presumed that there has been a substantial change in circumstances under paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section 518A.35, to the current circumstances of the parties results in a calculated court order that is at least 20 percent and at least \$75 per month higher or lower than the current support order or, if the current support order is less than \$75, it results in a calculated court order that is at least 20 percent per month higher or lower;

(2) the medical support provisions of the order established under section 518A.41 are not enforceable by the public authority or the obligee;

(3) health coverage ordered under section 518A.41 is not available to the child for whom the order is established by the parent ordered to provide;

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount;

(5) the gross income of an obligor or obligee has decreased by at least 20 percent through no fault or choice of the party; or

(6) a deviation was granted based on the factor in section 518A.43, subdivision 1, clause (4), and the child no longer resides in a foreign country or the factor is otherwise no longer applicable.

(c) A child support order is not presumptively modifiable solely because an obligor or obligee becomes responsible for the support of an additional nonjoint child, which is born after an existing order. Section 518A.33 shall be considered if other grounds are alleged which allow a modification of support.

(d) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518A.35, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

(e) A modification of support or maintenance, including interest that accrued pursuant to section 548.091, may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record.

(f) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518A.71.

(g) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

(h) Sections 518.14 and 518A.735 shall govern the award of attorney fees for motions brought under this subdivision.

(i) Except as expressly provided, an enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

(j) There may be no modification of an existing child support order during the first year following January 1, 2007, except as follows:

(1) there is at least a 20 percent change in the gross income of the obligor;

(2) there is a change in the number of joint children for whom the obligor is legally responsible and actually supporting;

(3) a parent or another caregiver of the child who is supported by the existing support order begins to receive public assistance, as defined in section 256.741;

(4) there are additional work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses;

(5) there is a change in the availability of health care coverage, as defined in section 518A.41, subdivision 1, paragraph (a), or a substantial increase or decrease in the cost of existing health care coverage;

(6) the child supported by the existing child support order becomes disabled; or

(7) both parents consent to modification of the existing order under section 518A.34.

A modification under clause (4) may be granted only with respect to child care support. A modification under clause (5) may be granted only with respect to medical support. This paragraph expires January 1, 2008.

(k) On the first modification under the income shares method of calculation, the modification of basic support may be limited if the amount of the full variance would create hardship for either the obligor or the obligee.

[For text of subds 3 to 7, see M.S.2006]

History: 2007 c 118 s 7

518A.40 CHILD CARE SUPPORT.

Subdivision 1. **Child care costs.** Unless otherwise agreed to by the parties and approved by the court, the court must order that work-related or education-related child care costs of joint children be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. The amount of work-related or education-related child care costs required by this subdivision to be divided between the obligor and obligee is the total amount received by the child care provider from the obligee and any public agency for the joint child or children. Child care costs shall be adjusted by the amount of the estimated federal and state child care credit payable on behalf of a joint child. The Department of Human Services shall develop tables to calculate the applicable credit based upon the custodial parent's PICS.

[For text of subd 2, see M.S.2006]

Subd. 3. **Determining costs.** (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518A.75.

(d) The court may allow the parent with whom the joint child does not reside to care for the joint child while the parent with whom the joint child resides is working or attending school, as provided in section 518.175, subdivision 8. Allowing the parent with whom the joint child does not reside to care for the joint child under section 518.175, subdivision 8, is not a reason to deviate from the guidelines.

Subd. 4. **Change in child care.** (a) When a court order provides for child care expenses, and child care support is not assigned under section 256.741, the public authority, if the public authority provides child support enforcement services, must suspend collecting the amount allocated for child care expenses when:

(1) either party informs the public authority that no child care costs are being incurred; and

(2) the public authority verifies the accuracy of the information with the obligee.

The suspension is effective as of the first day of the month following the date that the public authority received the verification. The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed, or when a child care support assignment takes effect under section 256.741, subdivision 4. The resumption is effective as of the first day of the month after the date that the public authority received the information.

(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, or if the public authority is unable to verify with the obligee that no child care costs are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension, continuation, or resumption of the collection of child care expenses under this subdivision. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518A.39.

History: 2007 c 13 art 3 s 31; 2007 c 118 s 8,9

518A.41 MEDICAL SUPPORT.

Subdivision 1. **Definitions.** The definitions in this subdivision apply to this chapter and chapter 518.

(a) "Health care coverage" means medical, dental, or other health care benefits that are provided by one or more health plans. Health care coverage does not include any form of public coverage.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan, other than any form of public coverage, that provides medical, dental, or other health care benefits and is:

- (1) provided on an individual or group basis;
- (2) provided by an employer or union;
- (3) purchased in the private market; or

(4) available to a person eligible to carry insurance for the joint child, including a party's spouse or parent.

Health plan includes, but is not limited to, a plan meeting the definition under section 62A.011, subdivision 3, except that the exclusion of coverage designed solely to provide dental or vision care under section 62A.011, subdivision 3, clause (6), does not apply to the definition of health plan under this section; a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA); a self-insured plan under sections 43A.23 to 43A.317 and 471.617; and a policy, contract, or certificate issued by a community-integrated service network licensed under chapter 62N.

(d) "Medical support" means providing health care coverage for a joint child by carrying health care coverage for the joint child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the joint child.

(e) "National medical support notice" means an administrative notice issued by the public authority to enforce health insurance provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32, in cases where the public authority provides support enforcement services.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a joint child's reasonable and necessary health-related expenses if the joint child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a joint child's reasonable and necessary health-related expenses if a joint child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, and prescription eyeglasses and contact lenses, but not over-the-counter medications if coverage is under a health plan.

Subd. 2. Order. (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and Social Security numbers of the parents and the joint child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) if a joint child is not presently enrolled in health care coverage, whether appropriate health care coverage for the joint child is available and, if so, state:

- (i) the parents' responsibilities for carrying health care coverage;
- (ii) the cost of premiums and how the cost is allocated between the parents; and
- (iii) the circumstances, if any, under which an obligation to provide health care coverage for the joint child will shift from one parent to the other;
- (3) if appropriate health care coverage is not available for the joint child, whether a contribution for medical support is required; and
- (4) how unreimbursed or uninsured medical expenses will be allocated between the parents.

Subd. 3. Determining appropriate health care coverage. In determining whether a parent has appropriate health care coverage for the joint child, the court must consider the following factors:

(1) comprehensiveness of health care coverage providing medical benefits. Dependent health care coverage providing medical benefits is presumed comprehensive if it includes medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parents have health care coverage providing medical benefits that is presumed comprehensive under this paragraph, the court must determine which parent's coverage is more comprehensive by considering what other benefits are included in the coverage;

(2) accessibility. Dependent health care coverage is accessible if the covered joint child can obtain services from a health plan provider with reasonable effort by the parent with whom the joint child resides. Health care coverage is presumed accessible if:

(i) primary care is available within 30 minutes or 30 miles of the joint child's residence and specialty care is available within 60 minutes or 60 miles of the joint child's residence;

(ii) the health care coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to unduly delay enrollment in health care coverage;

(3) the joint child's special medical needs, if any; and

(4) affordability. Dependent health care coverage is affordable if it is reasonable in cost. If both parents have health care coverage available for a joint child that is comparable with regard to comprehensiveness of medical benefits, accessibility, and the joint child's special needs, the least costly health care coverage is presumed to be the most appropriate health care coverage for the joint child.

Subd. 4. Ordering health care coverage. (a) If a joint child is presently enrolled in health care coverage, the court must order that the parent who currently has the joint child enrolled continue that enrollment unless the parties agree otherwise or a party requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a joint child is not presently enrolled in health care coverage providing medical benefits, upon motion of a parent or the public authority, the court must determine whether one or both parents have appropriate health care coverage providing medical benefits for the joint child.

(c) If only one parent has appropriate health care coverage providing medical benefits available, the court must order that parent to carry the coverage for the joint child.

(d) If both parents have appropriate health care coverage providing medical benefits available, the court must order the parent with whom the joint child resides to carry the coverage for the joint child, unless:

(1) a party expresses a preference for health care coverage providing medical benefits available through the parent with whom the joint child does not reside;

(2) the parent with whom the joint child does not reside is already carrying dependent health care coverage providing medical benefits for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the joint child does not reside extreme hardship; or

(3) the parties agree as to which parent will carry health care coverage providing medical benefits and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine which parent has the most appropriate coverage providing medical benefits available and order that parent to carry coverage for the joint child.

(f) If neither parent has appropriate health care coverage available, the court must order the parents to:

(1) contribute toward the actual health care costs of the joint children based on a pro rata share; or

(2) if the joint child is receiving any form of public coverage, the parent with whom the joint child does not reside shall contribute a monthly amount toward the actual cost of public coverage. The amount of the noncustodial parent's contribution is determined by applying the noncustodial parent's PICS to the premium schedule for public coverage. If the noncustodial parent's PICS meets the eligibility requirements for public coverage, the contribution is the amount the noncustodial parent would pay for the child's premium. If the noncustodial parent's PICS exceeds the eligibility requirements for public coverage, the contribution is the amount of the premium for the highest eligible income on the appropriate premium schedule for public coverage. For purposes of determining the premium amount, the noncustodial parent's household size is equal to one parent plus the child or children who are the subject of the child support order. The custodial parent's obligation is determined under the requirements for public coverage as set forth in chapter 256B or 256L.

(g) If neither parent has appropriate health care coverage available, the court may order the parent with whom the child resides to apply for public coverage for the child.

(h) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

(i) If a joint child is not presently enrolled in health care coverage providing dental benefits, upon motion of a parent or the public authority, the court must determine whether one or both parents have appropriate dental health care coverage for the joint child, and the court may order a parent with appropriate dental health care coverage available to carry the coverage for the joint child.

(j) If a joint child is not presently enrolled in available health care coverage providing benefits other than medical benefits or dental benefits, upon motion of a parent or the public authority, the court may determine whether that other health care coverage for the joint child is appropriate, and the court may order a parent with that appropriate health care coverage available to carry the coverage for the joint child.

Subd. 5. Medical support costs; unreimbursed and uninsured medical expenses.

(a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses under the health plan be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly PICS. The amount allocated for medical support is considered child support but is not subject to a cost-of-living adjustment under section 518A.75.

(b) If a party owes a joint child support obligation for a child and is ordered to carry health care coverage for the joint child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a joint child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the contributing party's child support payment must be increased by the amount of the contribution.

(d) If the party ordered to carry health care coverage for the joint child already carries dependent health care coverage for other dependents and would incur no additional premium

costs to add the joint child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the joint child.

(e) If a party ordered to carry health care coverage for the joint child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined PICS, unless the parties agree otherwise.

(f) If a party ordered to carry health care coverage for the joint child is required to enroll in a health plan so that the joint child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the joint child must not be allocated between the parties.

[For text of subds 6 to 11, see M.S.2006]

Subd. 12. Spousal or former spousal coverage. The court must require the parent with whom the joint child does not reside to provide dependent health care coverage for the benefit of the parent with whom the joint child resides if the parent with whom the child does not reside is ordered to provide dependent health care coverage for the parties' joint child and adding the other parent to the coverage results in no additional premium cost.

[For text of subds 13 and 14, see M.S.2006]

Subd. 15. Enforcement. (a) Remedies available for collecting and enforcing child support apply to medical support.

(b) For the purpose of enforcement, the following are additional support:

(1) the costs of individual or group health or hospitalization coverage;

(2) dental coverage;

(3) medical costs ordered by the court to be paid by either party, including health care coverage premiums paid by the obligee because of the obligor's failure to obtain coverage as ordered; and

(4) liabilities established under this subdivision.

(c) A party who fails to carry court-ordered dependent health care coverage is liable for the joint child's uninsured medical expenses unless a court order provides otherwise. A party's failure to carry court-ordered coverage, or to provide other medical support as ordered, is a basis for modification of a support order under section 518A.39, subdivision 2.

(d) Payments by the health carrier or employer for services rendered to the dependents that are directed to a party not owed reimbursement must be endorsed over to and forwarded to the vendor or appropriate party or the public authority. A party retaining insurance reimbursement not owed to the party is liable for the amount of the reimbursement.

Subd. 16. Offset. (a) If a party is the parent with primary physical custody as defined in section 518A.26, subdivision 17, and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the joint child, the other party's child support and spousal maintenance obligations are subject to an offset under subdivision 5.

(b) The public authority, if the public authority provides child support enforcement services, may remove the offset to a party's child support obligation when:

(1) the party's court-ordered health care coverage for the joint child terminates;

(2) the party does not enroll the joint child in other health care coverage; and

(3) a modification motion is not pending.

The public authority must provide notice to the parties of the action. If neither party requests a hearing, the public authority must remove the offset effective the first day of the month following termination of the joint child's health care coverage.

(c) The public authority, if the public authority provides child support enforcement services, may resume the offset when the party ordered to provide health care coverage for the

joint child has resumed the court-ordered health care coverage or enrolled the joint child in other health care coverage. The public authority must provide notice to the parties of the action. If neither party requests a hearing, the public authority must resume the offset effective the first day of the month following certification that health care coverage is in place for the joint child.

(d) A party may contest the public authority's action to remove or resume the offset to the child support obligation if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing or resuming the offset is appropriate and, if appropriate, the effective date for the removal or resumption.

[For text of subds 17 and 18, see M.S.2006]

History: 2007 c 118 s 10–17

518A.43 DEVIATIONS FROM CHILD SUPPORT GUIDELINES.

Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive child support obligation computed under section 518A.34 is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 518A.34, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the presumptive child support obligation:

- (1) all earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 518A.29, paragraph (b);
- (2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;
- (3) the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;
- (4) whether the child resides in a foreign country for more than one year that has a substantially higher or lower cost of living than this country;
- (5) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;
- (6) the parents' debts as provided in subdivision 2; and
- (7) the obligor's total payments for court-ordered child support exceed the limitations set forth in section 571.922.

[For text of subds 2 to 6, see M.S.2006]

History: 2007 c 118 s 18

518A.56 MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.

[For text of subds 1 to 12, see M.S.2006]

Subd. 13. **Child support payment center.** Payments to the commissioner from other governmental units, private enterprises, and individuals for services performed by the child support payment center must be deposited in the state systems account authorized under section 256.014. These payments are appropriated to the commissioner for the operation of the child support payment center or system, according to section 256.014.

History: 2007 c 147 art 19 s 19

518A.75 COST-OF-LIVING ADJUSTMENTS IN MAINTENANCE OR CHILD SUPPORT ORDER.

[For text of subds 1 to 2a; see M.S.2006]

Subd. 3. **Result of hearing.** If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance or basic support obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment shall take effect as of the date it would have become effective had no hearing been requested.

History: 2007 c 118 s 19