

Why Choose McIntosh Lawyers;

## Child, Spousal and APL Support Orders

While a Support Order can consider countless issues and scenarios, a basic Support Order has 5 essential components which can critically determine major rights and obligations of the parties. Each case has factual circumstances which affect valuation of a Support Order and this is provided for informational purposes so that prospective clients can have a basic understanding of certain issues prior to selecting the lawyer to prosecute or defend their support case.

Below is a non-comprehensive outline of the 5 essential components of a Support Order:

1. **Effective date:** The effective date of the order is the date the order will be effective. The significance of effective date can have different consequences depending upon the matter before the Court and whether the matter is sought to establish, increase or decrease an Order. Thus, the effective date is critical consideration in filing, negotiating and arguing cases before the Court.

For example, if the matter is a Complaint to establish an Order, or a Petition to increase an Order, and the effective date is set to start charging at an earlier point in time, relative to the hearing, the consequences could result in an Order which instantly creates arrearages larger than the charging order, thus implicating a variety of consequences, including an additional payment for payment on arrears, the potential for a FIDM (financial institution data match) seizure from assets from financial institutions and may subject the obligor to sooner-than-expected enforcement proceedings, including contempt and possible incarceration, if the Order is not timely and consistently paid.

On the other hand, if the effective date for a Petition to reduce is granted and is set to start charging at an earlier point in time, relative to the hearing, the consequences could result in an Order which instantly lowers the arrears or quite possibly creates a credit. A credit which exceeds two times the charging order may also trigger a reduction of the charging Order by a sufficient amount to appropriately retire the credit.

2. **Charging Order:** A charging Order is the total Order for support, excluding an amount on arrears, and has a variety of subcomponents, including:
  - a. **A Base Order:** A Base Order is derived from calculating the income of the parties, inputting the sum of the incomes into the child support guidelines and, thereafter, allocating, on a percentage basis, the support obligations of the parties to either pay or receive support. This is a critical calculation because Base Orders are driven by the earnings, earning capacity, and that which is deemed income for each party. Significantly, the percentages established in this calculation have reverberations which affect other aspects of the Support Order.

Those lacking an understanding of the nuances of the Pennsylvania Rules of Civil Procedure, Pennsylvania Statutory Law or Pennsylvania precedential law often

are burdened by a Base Order which is incorrect. Indeed, such litigants can fail to advance fact-specific, and legal arguments, relating to issues such as imputed income, voluntary reductions of income, education in lieu of work, non-financial obligations and other sources of income. Failure to factually and legally investigate and understand these issues, and properly raise the appropriate arguments at a Support Hearing can create disastrous results which affect not only the Base Order, but all other aspects of the Support Order. Moreover, in preparing for a Support Hearing, failing to run hypothetical income scenarios prior to court may result in a party arguing a position which intuitively may seem logical but, in-fact, undermines the interests of that party.

- b. **Medical Expenses:** Medical insurance is a mandatory requirement of a Child Support Order. Medical expenses paid by an obligor may serve as a basis to reduce the base order, or alternatively, medical expenses paid by an obligee may serve to raise a child support order. The cost of how these expenses are split by the parents are established the percentage calculations described in the described Base Order analysis, set forth above.
- c. **Spousal Support or APL:** Spousal support and APL are essentially the same thing, support for the spouse making less money, with one critical distinction; Spousal Support can be challenged by an entitlement defense while APL cannot. Many *pro se* litigants and inexperienced practitioners fail to properly investigate the facts and law applicable to these issues and fail to raise or defend these claims consistent with the needs of a particular litigant.
- d. **Child Care Expenses:** Child care expenses are often a driving expense which often becomes one of the largest line-item expenses in a Child Support Order. The cost of how these expenses are split by the parents are established the percentage calculations described in the described Base Order analysis, set forth above. Many *pro se* litigants or inexperienced practitioners often argue that a custodial parent caring for young children should be forced to find a low paying job, held to an imputed income and/or held to secure, *at least* a job low of earnings. In such circumstances, the obligor thereafter often discovers that the argument advanced had an unintended consequence; the childcare expenses far exceed the benefit of forcing the custodial parent to find a job.
- e. **Activities/Tuition:** Activities and Tuition are often hotly disputed between the parties and, similar to Child Care Expenses and Medical Expenses, the cost of how these expenses are split by the parents are established the percentage calculations described in the described Base Order analysis, set forth above. As divorces get increasingly contentious, some parents unilaterally enroll children into a multitude of Activities and schools with the specific intent to burden the other parent with an Activity/Tuition expense which is overly burdensome and improper. Many *pro se* litigants or inexperienced practitioners fail to combat such abuses by failing to factually investigate the history of the family, how the child

was historically raised, how the other children in the family were historically raised, and the applicable law concerning these issues.

- f. Mortgage Deviation:** A Mortgage Deviation is an upward or downward adjustment to a Base Order based upon who lives in the marital home, the parties' income and the expense of the mortgage, taxes and other fees needed to maintain the marital home. Failing to set the appropriate incomes in the Base Order, appropriately and properly investigating the facts can lend itself to an Support Order which fails or improperly considers the costs of the marital home.
  - g. Shared Custody Deviation:** Pennsylvania Law presumes that the non-custodial parent has custody of the children 30% of the time. If, in fact, the non-custodial parent has the child less or more than 30% of the time, this may lead to an upward or downward deviation of the Support Order. Many *pro se* litigants and inexperienced practitioners fail to investigate the facts and appreciate the law with respect to presentation of this deviation at the time of a Support Hearing.
  - h. Split Custody Deviation:** Spilt Custody is where each parent is the custodial parent of one or more of the children. Under such circumstances, this creates what is known as an Offsetting Order as it relates to each parent's respective obligation to contribute to the support for the child of the custodial parent. Many *pro se* litigants and inexperienced practitioners fail to investigate the facts and appreciate the law with respect to presentation of this deviation at the time of a Support Hearing.
  - i. Multifamily Deviation:** Pennsylvania law is designed to treat all children equally and may serve to provide a multifamily deviation under certain circumstances. For example, if the defendant-obligor has other children, or is the subject of other support orders, a multi-family deviation may serve to proportionally reduce one or more of the Charging Orders. Many *pro se* litigants and inexperienced practitioners fail to investigate the facts and appreciate the law with respect to presentation of this deviation at the time of a Support Hearing.
- 3. Ordered on Arrears:** Ordered On Arrears is a number which is added to the Charging Order in the event that the Defendant/obligor falls behind in paying the Charging Order.
- 4. Unreimbursed Medical Expenses:**
- a. Children:** All Charging Orders must contain a calculation of how the unreimbursed medical expenses for the children are to be split by the parties. The cost of how these expenses are split by the parents are established the by percentage calculations described in the described Base Order analysis, set forth above.
  - b. Spouse (for Spousal Support/APL):** All Charging Orders must contain a calculation of the defendant/obligor is to pay for the unreimbursed medical expenses of the spouse. The cost of how this expenses is established the

percentage calculations described in the described Base Order analysis, set forth above.

- 5. Medical Insurance:** A child Support order must include a provision that directs which parent is responsible for Medical insurance. As set forth above, the allocation for this expenses is, or should be, factored into the Base Order. Many *pro se* litigants and inexperienced practitioners fail to investigate the facts and appreciate the law with respect to presentation of this calculation at the time of a Support Hearing.

At McIntosh Lawyers your legal matter is not simply a case which is processed with the client sitting on the proverbial sideline. Our goal is to take the time and effort to forge a relationship with our clients, creating an attorney-client team, and ensure that all facts, and the application of the law to those facts, are understood so that the client can make an informed decision prior to and during the dynamic atmosphere of a Support Hearing.