



Michigan Supreme Court

State Court Administrative Office

Friend of the Court Bureau

Michigan Hall of Justice

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Steven D. Capps
Director

MEMORANDUM

DATE: March 9, 2017

TO: Friends of the Court
Chief Circuit Judges
Presiding Family Division Judges
cc: Circuit Court Administrators
Family Division Administrators

FROM: Steven D. Capps

RE: Improving Child Support Calculations

The State Court Administrative Office (SCAO), and specifically SCAO's Friend of the Court Bureau, develops guidelines for the conduct, operations, and procedures of all the friend of the court (FOC) offices. Each FOC must take all necessary steps to adopt office procedures to implement the recommendations of the bureau. [MCL 552.503(7)]

This memo provides information related to a change in Michigan's IV-D policy regarding software used to calculate child support that takes effect on March 13, 2017.

- Chief judges should assure that IV-D funded court staff (friend of the court office, referees, etc.) exclusively use the Michigan Child Support Enforcement System (MiCSES) software to calculate child support amounts.
- A public version of the MiCSES's calculation tool ([MiChildSupport Calculator](#)) is available for free to anyone with access to the internet. This free tool gives everyone who cannot access MiCSES (judges, referees, attorneys, parties, mediators, etc.) the ability to figure child support using the same calculation tool as the friend of the court.
- SCAO recommends that local courts maximize the benefits of using the same calculations as the friend of the court by implementing the use of [MiChildSupport Calculator](#) locally by judges and court staff, in legal self-help centers, and adding links on local court webpages.

If court or friend of the court staff have any questions, or would like additional information or clarification regarding this memorandum, please contact William J. Bartels at bartelsb@courts.mi.gov or Paul Gehm at gehmp@courts.mi.gov, or by calling (517) 373-5975.

Background:

Nearly all of Michigan's domestic relations cases involving children receive services under Title IV, part D, of the Social Security Act (IV-D). Under IV-D, the federal government provides funding to the states to establish and enforce child support. Local government relies on IV-D funding to operate FOC offices. In order to receive that funding, local courts contractually agree with the Office of Child Support to implement IV-D requirements in FOC operations.

Title IV-D includes many procedural and operational requirements that states must implement in order to maintain funding and avoid penalties. One such requirement mandates that states use a single statewide automated child support enforcement system.¹ MiCSES is Michigan's statewide system. Title IV-D also requires that every state establish a child support guideline that presumptively applies to every child support award in the state, even those handled outside of the IV-D program.² All IV-D child support calculations should be done using MiCSES, and the information (data) used to calculate support must be maintained in it.³

MiCSES has always contained the capability to calculate a child support amount. In October 2015, MiCSES released a new browser-based calculator that vastly improved its handling of support calculations. In mid-March 2017, MiCSES will release enhancements to the public version of MiCSES's calculator ([MiChildSupport Calculator](#)), so that everyone (judges, referees, attorneys, parties, mediators, etc.) with access to the internet can figure support using the same calculations as FOC offices. This release also eliminates the need for FOC staff to use other tools (software) to calculate child support obligations.

A. Mandated Change

Effective March 13, 2017, Michigan's IV-D policy will no longer permit IV-D funded agencies and employees (e.g., FOC staff, prosecuting attorney staff, and referees) to use other tools to calculate child support.⁴ Because of this requirement's potential negative impact on IV-D funding, chief judges need to assure that all FOC staff and referees, who are funded by IV-D, exclusively use the MiCSES calculator when available or the public [MiChildSupport Calculator](#) when MiCSES is not available to calculate every child support obligation.

B. Common Concerns

1. From time to time, SCAO learns of instances where court staff or judges have concerns regarding differences in the results calculated by different tools. Often someone questions "Which is the correct result?" The simple answer is that any result calculated by correctly applying the current Michigan Child Support Formula (MCSF) is correct. Because the formula is a mathematical equation, it will always produce the same results when the same numbers are used to replace each variable. Obviously, any tool or assumption programmed

¹ 45 CFR 302.85 and complies with *Automated Systems for Child Support Enforcement: A Guide for States*.

² 45 CFR 302.56. The Michigan Child Support Formula established by the bureau pursuant to MCL 552.519 is Michigan's required guideline.

³ This does not include private filings in IV-D cases where someone other than the FOC or referee completes the calculation.

Due to limited access to MiCSES and other business needs, IV-D staff used other child support calculation applications and software (like GUIDELIN, Marginsoft, and Prognosticator) for a number of years. Staff using other applications were required to manually enter the results and information used to calculate child support into MiCSES.

⁴ IV-D Memorandum 2016-32 issued by the Office of Child Support on October 18, 2016.

that does not follow the MCSF's requirements would produce results that differ from a tool that follows the manual's requirements.

The formula calculates support using net income. Most often, differences among the calculation tools are a result of each using different assumptions when estimating taxes to determine net income.⁵ As a result, if a user relies solely on a tool's automated calculations to determine net income, the multiple tools will sometimes reach different results. 2017 MCSF 2.07(B) says to "deduct the parent's actual income taxes," and if the returns are not made available, to estimate taxes based on income tax guides based on a parent's likely filing status and actual number of dependent exemptions. If actual taxes are available, those numbers should be entered and used to calculate support rather than relying on estimated taxes. The formula manual does not specify which tax guide or methodology to use when estimating taxes, and simply says to "estimate taxes at rates that the parent would likely pay for the income types attributed to the parent."

- a. Estimated taxes may be adjusted if they appear inaccurate. Where a party can demonstrate that an assumption used to calculate support is different than the party's circumstances (e.g., income, filing status, dependents, etc.), the assumed figures can be adjusted and an updated result recalculated.

For instance, some tools estimate taxes using assumptions that automatically assign the \$1,000 Child Tax Credit to the parent given the dependent exemption, leaving it to the person calculating support to manually remove the credit if that parent is not entitled to claim it. Because claiming a child as a dependent is only one of several tests used in IRS publication 972 to determine if a parent can receive this credit (age, resides majority of year with claiming parent, citizenship, etc.), the MiCSES and MiChildSupport calculators do not automatically include the \$1,000 credit when estimating taxes.⁶

- b. If the court is presented results produced by different support calculation tools, a proponent of a particular result should explain why the preferred calculation is the correct result, and based on the evidence presented, the court can decide any fact in dispute.⁷ If faced with having to determine which of two different results to use, and absent evidence that circumstances differ from the inputs used in the MiCSES or MiChildSupport calculator, the courts can improve consistency and best meet IV-D regulations by using the those calculators' results.

2. SCAO has also heard some concern that the MiCSES tool does not also calculate spousal support, while some other tools calculate both. While statute mandates using a statewide formula to calculate child support, no statewide formula exists for spousal support. Because

⁵ Due to the difficulty accurately predicting whether a parent will actually meet the IRS requirements to qualify for certain credits or deductions, assumptions often differ on things like child tax credits, health care subsidies/credits, low income housing credits, earned income credits, etc.

⁶ In calculations that rely on tax estimates rather than actual tax amounts (that would already include this credit), if it is determined that a parent would actually receive the full child tax credit for a child, estimated taxes can be reduced by \$83.33/month (\$1,000/12).

⁷ In deciding on the correct amount of child support, the court must assure that the information used follows the MCSF.

When a party presents a different figure determined by a calculator other than MiChildSupport, it is likely due to an assumption concerning tax deductions and credits used in the program's design. If a difference occurs in estimated taxes based on the same income, dependents, and filing status, a party who advocates for a different result is representing to the court that his or her net income is different and the court must decide whether that party has provided sufficient information for the court to decide what the party's actual income is.

the child support amount is needed to calculate spousal support, using a separate tool and calculating it separately should not be burdensome to parties and attorneys in the relatively small percentage of cases where it is actually ordered.

C. Maximizing Local Benefits

While [MiChildSupport Calculator](#)'s use is not mandated for individuals outside of the IV-D program, getting others to use the same child support calculation tool as the FOC office has benefits for the court and the parties. The following are a few of those benefits:

- The court can be assured that its programming follows the MCSF requirements.⁸
- [MiChildSupport Calculator](#) is free to use. The court does not have to purchase software or licenses to calculate support.
- When the court, attorneys, and parties all use the same tool, discovering differences is easier and will reduce the time and resources spent sorting out why the results calculated with multiple tools differ. To make comparisons easier, [MiChildSupport Calculator](#) produces a report that includes all factual assumptions and calculations upon which the support amount is based.
- Parties do not have to pay to use the calculator or pay to have someone to calculate support for them.
- Anyone with internet access can use [MiChildSupport Calculator](#) from anywhere and at any time.
- Giving parties a free calculation tool will reduce the number of calculations that the FOC office has to do for unrepresented parties.

To take advantage of those benefits and improve operations, SCAO recommends that local courts implement all of the following:

- Have local court staff and judges, who use other tools to calculate support and are unable to access MiCSES, change to using [MiChildSupport Calculator](#) when calculating child support amounts.
- Assure that IV-D funded staff (FOC staff, prosecuting attorney staff, referees, etc.) submits child support recommendations and orders produced exclusively by the MiCSES or public version of [MiChildSupport Calculator](#).
- Add shortcuts on desktops and bookmarks in browsers to [MiChildSupport Calculator](#) on computers with internet access in local law libraries and at any local legal self-help center that the court oversees.
- Add links on related local court and FOC webpages to [MiChildSupport Calculator](#).
- Share information about the FOC office's required use and free availability with local attorneys, domestic relations mediators, and local libraries.

⁸ IV-D computer systems are required to follow the state's approved child support guidelines to automatically calculate the support obligation amounts. To assure that it did, MiCSES and OCS involved FOC, PA, and SCAO staff as integral participants during the design of MiChildSupport Calculator. SCAO provided feedback and responded to questions to assure the assumptions used in its design were consistent with the terms of the MCSF.