



Michigan Supreme Court

State Court Administrative Office

Trial Court Services Division

Michigan Hall of Justice

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Steven D. Capps
Director

MEMORANDUM

DATE: September 30, 2010

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

FROM: Steven D. Capps

RE: SCAO Administrative Memorandum 2010-04
Uniform Support Order Revisions

MCR 3.211(D) requires that child support and spousal support orders be prepared on the Uniform Support Order (USO) approved by the Michigan Supreme Court. On September 22, 2010, the Court adopted the USO revisions that were suggested by the State Court Administrative Office (SCAO). The Court approved the new forms (dated 5/10) for immediate use, and authorized the continued use of the previous version of each form until December 31, 2010. Beginning January 1, 2011, courts should only accept support orders prepared on the latest forms (dated 5/10).

This memorandum describes the recent changes to the USO forms, and contains additional information about using the forms. SCAO-approved domestic relations forms are available on the Michigan Courts website at <http://courts.michigan.gov/scao/courtforms/domesticrelations/drindex.htm>. You may also access the individual USO forms by clicking on the title below:

[Uniform Child Support Order – FOC 10](#)

[Uniform Child Support Order, No Friend of the Court Services – FOC 10a](#)

[Uniform Spousal Support Order – FOC 10b](#)

[Uniform Spousal Support Order, No Friend of the Court Services – FOC 10c](#)

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 (517) 373-5975.

Many USO form revisions approved by the Supreme Court implement recent amendments of the Friend of the Court Act and the Support and Parenting Time Enforcement Act.¹ Other revisions adopted by the Court implement improvements recommended through SCAO's Michigan Court Forms Committee process.

A. Changes to All Uniform Support Orders – FOC 10, FOC 10a, FOC 10b, FOC 10c

1. To more easily identify circumstances leading to an order's entry, the following options were added to each form: "This order is entered after hearing. after statutory review. on stipulation of the parties. on consent of the parties."² When preparing an order, select the one that best describes the order.
2. A "Court Use Only" section was added to the bottom of each form to provide space for the court and friend of the court notations or approvals.

B. Uniform Orders Used in Cases Where the Parties Receive Friend of the Court Services – FOC 10 and FOC 10b

1. To reflect a recent amendment of MCL 552.603a, providing that a surcharge can be assessed only in cases where a court orders it following a determination that the parent willfully failed to pay support, the surcharge provision was changed to "A surcharge may be added . . ."
2. The section on the mandated disclosure of information was amended to reflect changes to MCL 552.603(7) that now require the additional disclosure of a mailing address (required for service of all notices) and to MCL 552.603(8) allowing imposition of a fee for failing to timely report information to the friend of the court (FOC) office.

C. Uniform Child Support Orders – FOC 10 and FOC 10a

1. Due to amendments of MCL 552.605b(3) and MCL 552.605c(3), both orders were modified to end support obligations on the last day of a specified month.

The support obligation for a child continues through the end of the month of the later: 1) the child's 18th birthday, or 2) the last day of regularly attending high school full time with the reasonable expectation of graduating, as long as the child is residing full time with the recipient of support or at an institution, but under no circumstances shall the support obligation continue after the end of the month that the child reaches age 19 1/2.

2. Support orders must include provisions that require the assignment of support when a child is placed in foster care and that permit the friend of the court office to abate or redirect support to the appropriate funding source. MCL 552.605d(3) now permits support assignment to county-funded foster care.

The relevant language in the FOC 10 was changed to ". . . the friend of the court . . . shall redirect support for a child placed in foster care."

¹ 2009 PA 233 was effective January 8, 2010, and 2009 PA 193 was effective December 28, 2009.

² Because statutory reviews only occur in friend of the court child support cases, the "after statutory review" selection only appears on the FOC 10 form.

Additionally, an assignment provision was added to both forms to incorporate the existing statutory requirement.

Assignment. When a child is placed in foster care, that child's support is assigned to the Department of Human Services while under the state's jurisdiction and to the funding county while placed in a county-funded program.

3. Friend of the court offices use statewide guidelines to administratively set arrearage repayment rates. Those guidelines recalculate the arrearage payment when a payer's current obligation decreases because of an income reduction. To assist the FOC in determining whether an order was based on a payer's income reduction, the following language was added to both forms: "☐ Support was reduced because payer's income was reduced." Select the provision when true.

D. Questions About Using Uniform Support Orders

1. How are obligations determined by the Michigan Child Support Formula recorded on a Uniform Child Support Order?

- a. Tiered obligations for multiple children

To avoid the necessity of seeking new orders when children are no longer eligible to receive child support, support orders should specify the obligations calculated for fewer children. 2008 MCSF 1.02(C)

- b. Child Support Table

Insert the monthly obligations into the column for the correct number of children-in-common supported in this case and on the appropriate row on the table.

- 1) Record the amount calculated by applying 2008 MCSF 3.02 -3.03 in the row labeled "Support" in the Child Support table.
- 2) In the row labeled "Premium adjust" record the positive or negative result from health care premium allocation determined by 2008 MCSF 3.05(C).
- 3) Insert the sum of the "Support" and "Premium adjust" rows in the "Subtotal" row.
- 4) Record the payer's apportioned share of ordinary medical expenses in the "Ordinary medical" row. 2008 MCSF 3.04(B)(3)(a)(i).
- 5) The child-care amount figured by 2008 MCSF 3.06(C) is placed in the "Child care" row.
- 6) The monthly social security credit determined by 2008 MCSF 3.07 is recorded in the "SS benefit credit" row.

- c. Parental Time Offset and Overnights Used

To comply with 2008 MCSF 3.03(E), every support order must specify whether amounts include a parental time offset, and the annual number of overnights used in its calculation. Except in cases when the MCSF does not permit using the

parental time offset (e.g., those involving third-party custodians), SCAO recommends always using this provision.

Normally, the number of overnights is determined based on 2008 MCSF 3.03(C). In cases where one parent is the payer and the other the recipient, if no overnights are used in the calculation or a number cannot be determined, the provision should be selected indicating 365 overnights with one parent and 0 (zero) with the other.

d. Annual Ordinary Medical Amounts

The orders' Uninsured Health Care Expense section records both parties' medical expense percentages and the annual ordinary medical expense amount that a parent must exceed before seeking reimbursement of extraordinary expenses. Because annual figures cover combined expenses for several children and the manual requires tiering amounts for fewer children, annual ordinary amounts should not be stated as a "per child" amount.

For instance, an order that applies the 2008 MCSF-S Ordinary Medical Expense Averages table for three children would state: "The annual ordinary medical amount is \$1,034.00 for three children, \$690.00 for two children, and \$345.00 for one child."

2. Why does the Uniform Child Support Order contain a selection indicating a friend of the court recommendation and not for referees?

To comply with MCL 552.517b(6), when the FOC office selects this option and makes a recommendation, it includes several additional pages that detail the basis of its recommendation.

Given the space needed to meet the requirements for referee recommended orders in MCL 552.507 and MCR 3.211(E), SCAO designed the USO anticipating the use of a separate cover by referees. SCAO-approved form FOC 60 (Referee Findings and Recommendation for Order After Hearing on Modification of Support) was designed to accompany a proposed Uniform Child Support Order.