



TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF HUMAN SERVICES

CHARLES M. PALMER, DIRECTOR

November 15, 1990

Senator Donald V. Doyle
Iowa State Capital
Des Moines, Iowa 50319

Dear Senator Doyle:

We have been asked to share with your committee comments made from the IV-D (Child Support Enforcement) perspective on the Supreme Court Guidelines. The comments are enclosed and are written to define implementation of the Guidelines under the federal family support act and regulations as it relates to the guidelines.

Sincerely,

C. M. Palmer
Charles M. Palmer
Director

CMP/nlr

enclosure (1)



TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF HUMAN SERVICES

CHARLES M. PALMER, DIRECTOR

August 13, 1990

R.K. Richardson, Clerk
Supreme Court Clerk's Office
Supreme Court of Iowa
State Capitol Building
Des Moines, Iowa 50319

*Sept 15 -
Court discuss*

Dear Clerk Richardson:

The Bureau of Collections wishes to submit the following comments on the matter of the proposed uniform child support guidelines and criteria dated June 8, 1990, and asks that you consider clarifying the following issues in your directions prior to implementation of the revised guidelines.

After talking with Ta-Yu Yang, it is my understanding that the Supreme Court will consider modifying the proposed guidelines to include provisions for coverage of a child's health care needs and include health insurance when available to either parent at a reasonable cost as defined in the proposed federal regulations published on September 13, 1989. The time it will take to work through the process of including medical support into the guidelines may result in the federal government finalizing the proposed federal regulations.

1) Cases in which Guidelines are Rebutted

The proposed federal regulations appear quite clear that the criteria for deviating from the guidelines must be based on the best interests of the child and not substantial injustice to the payor or payee. The proposed regulations also indicate the findings shall state the amount of the support that would have been required under the guidelines, how the order varies from the guidelines, including the value of any property or other support awarded in lieu of support presumed by the guidelines; justification of how the finding serves the best interests of the child; and in cases where items of value are conveyed in lieu of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.

2) Review Guidelines Every Four Years

The state is required to gather and analyze data regarding the number of cases in which the guidelines have been applied, the number of cases in which there has been a deviation from the guidelines and the reasons for such deviation. The analysis of the data must be used in the

of the support obligation. In addition, this discretionary formula does not provide adequate safeguards from non-custodial parents who may seek a temporary or even a permanent job which will net less than \$500 a month simply to seek a minimal or zero support obligation when the order is being established or to seek a reduction through a modification of an existing order.

Except for special circumstances, the guidelines should presume that all non-custodial parents have an earning potential of a full-time employee working for the state's minimum wage rate. Based on that presumption, a non-custodial parent has the potential gross earnings of \$662 per month or an estimated \$462 net earnings. That person would then be capable of providing support at a reduced rate of 15% of their net earnings or \$70-75 per month obligation.

Another issue to be considered when determining a minimum support obligation would be that the first \$50 per month of support collected by the IV-D agency for children and the parents of such children who are current recipients of aid under the state's title IV-A plan and for whom an assignment is in effect, is distributed directly to the family, which provides a significant benefit to the families served.

5) Definitions of Terms

The proposed guidelines use the terms "substantial injustice" and "special circumstances" when referring to the variance criteria. These terms should be defined in order to avoid subjective interpretations, unjustified deviations from the guidelines, abuse, and misuse.

Page two of Exhibit "A" uses the term "income" when referring to resources subject to the formula. This term should also be more clearly defined. Specific circumstances which are of concern include:

- a) Income of persons who are self-employed
- b) Recipients of trust funds
- c) Recipients of ADC or SSI
- d) Recipients of Social Security Disability
- e) Recipients of retirement or pension funds
- f) Recipients of Unemployment compensation
- g) Recipients of Interest Payments from
Bonds, stocks, savings
- i) Recipients of Worker's compensation payments
- j) Recipients of disability insurance payments
- k) Unearned income
- l) Alimony received or child support received
from other obligors

Optional Definitions:

- Amount of monthly support orders obligated to pay.
- Amount of support per month paid by the obligor as recorded in the official payment record.
(May vary each month)
- Amount collected through tax offsets for arrearages.

7) Format and Directions for Charts

A) The formula charts used in establishing the support obligation provide percentages of income levels on the part of the non-custodial parent up to \$3,001 & over. Because there are no changes (increases or decreases) in the percentages after \$1,001 and above, it is not necessary to continue the chart beyond that point. This may lead to unnecessary speculation and misunderstandings among the higher income level non-custodial parents.

B) The directions which are found at the bottom of the formula charts state that "to determine the monthly child support payments, multiply the non-custodial parent's net monthly income by the percentage shown on the chart."

These directions should be modified to include the cross-referencing of the custodial parent's net monthly income in determining the correct percentage.

Direction should be provided in regard to those instances when the noncustodial parent has been given legal notice but does not respond to the petition, i.e. default situations when the income of the noncustodial parent is unknown.

8) Administrative Process

Since the uniform child support guidelines would be used when establishing a support obligation through the administrative process, reference should also be made to the clause " or Administrator's Designee pursuant to Chapter 252C of the Code of Iowa", when referring to the court or actions of the court.

9) Arrearages and ADC Reimbursements

The proposed guidelines should specifically state that the charted amounts are for determining current child support obligations only, and that additional amounts may be ordered if the support is for a prior period, arrearage, or reimbursement of amounts expended from ADC funds.

Your consideration to clarify these issues will be greatly appreciated.

Sincerely,


James A. Hennessey
Bureau Chief
Bureau of Collections

cc: Rebecca Colton
Judge Rosemary Shaw Sackett
Judge Dan Morrison
Judge Jack Levin
Judge Leo Connolly
Cynthia Danielson
Kathleen Neylan
Christopher O'Donohoe
Susan Eckstrom
Senator Charles Bruner
Senator Beverly Hannon
Representative Betty Jean Clark
Representative Lee Plasier
Norma Ryan



TERRY E. BRANSTAD, GOVERNOR

DEPARTMENT OF HUMAN SERVICES

CHARLES M. PALMER, DIRECTOR

November 14, 1990

The Honorable Arthur A. McGiverin
Chief Justice
Supreme Court of Iowa
State Capitol Building
Des Moines, Iowa 50319

Dear Chief Justice McGiverin:

The Iowa Department of Human Services has recently received a copy of the Court's ruling dated October 16, 1990, adopting mandatory child support guidelines to become effective December 31, 1990. The department had previously submitted comments to the proposed guidelines suggesting several areas that we believed required further clarification.

The adopted guidelines contain several changes from the proposed guidelines. We would like to express our interpretation of the changes, and describe how we plan to utilize the adopted guidelines in providing child support enforcement services to establish or modify a support obligation.

The first paragraph of Exhibit A was changed by the addition of the following sentences.

"The adoption of these guidelines shall not, standing alone, furnish the basis for a modification of a child support award entered prior to October 12, 1989. For support orders entered on or after October 12, 1989, see 1990 Iowa Acts ch. 1224. 45."

Two concurrent and related enactments are problematic. Iowa Code Section 598.21, new subsection 8A as amended by 1990 Iowa Acts, S. F. 2429, states that "... a substantial change of circumstances exists when the court order for child support deviates from the child support guidelines established pursuant to section 598.21, subsection 4 ...". In addition, proposed federal regulations published in the August 15, 1990, Federal Register Vol. 55, No. 158, would require that:

"Inconsistency with the State's guidelines for support must be adequate grounds for modification of an order regardless of whether the order was established under the guidelines, unless the inconsistency is considered negligible under the State's procedures."

- more -

Pursuant to these requirements, the department has adopted administrative rules and procedures for the periodic review and adjustment of support orders being enforced by the Child Support Recovery Unit (CSRU). Based on these rules, CSRU may initiate procedures to have a support order modified by the court when certain conditions are met, of which the following is significant:

The amount of the present support award varies from the amount of support that would be due when applying the mandatory support guidelines by more than 20 percent, or the net monthly income of the child support obligor does not fall within the income limits established under the guidelines. This variance must be due to circumstances that have existed for at least 6 months, and are reasonably anticipated to last for an additional 6 months.

We believe that this is required by the Family Support Act, Senate File 2429, and the proposed federal regulations. The basis for initiating a modification action is a substantial and continuous change resulting in a variance from the guidelines, regardless of when the original support order was established or last modified. It should also be noted that under the department's administrative rules, a review will be conducted by CSRU at the request of any of the parties to the order no more than once every two years. This two year period is based on the date the order was originally entered, last modified, or last reviewed for the purpose of modification, whichever is later.

The adopted guidelines also contain provisions for determining a person's net monthly income. A new deduction allowing "actual medical support paid pursuant to court or administrative order" from gross income was added to the proposed guidelines. The deduction for prior support obligations was also changed to include spousal support actually paid pursuant to a court or administrative order. In addition, the proposed deduction for child care expenses was amended by limiting the amount that may be deducted to the amount in excess of the "appropriate income tax credit".

It is our intent to implement these provisions when petitioning the court to establish or modify a support order, as follows:

1. Deductions for medical, child, and spousal support based on a prior court or administrative order shall be considered only when the official payment history indicates that payments have been paid. We will look at the preceding 12 months or the number of months since entry of the order and divide by the appropriate number of months to determine the deduction.

The Honorable Arthur A. McGiverin
Page Three

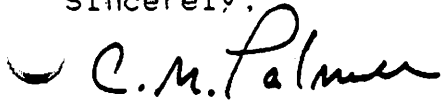
3. We plan to use the federal tax limits rather than the state tax limits in making the determination for child care deductions.

For the Court's information and consideration, we also wish to point out that an individual ma. claim alimony payments as an income deduction for tax purposes. No provision is made under the adopted guidelines for limiting the amount of spousal support that may be deducted in a similar manner as the limitation placed on deductions for child care expenses.

Finally, the adopted guidelines state that gross monthly income does not include public assistance payments. We plan to take a rather broad interpretation of the term "public assistance" to include any assistance program funded by a federal, state or local government agency that would be exempt from consideration in determining eligibility under the Aid to Dependent Children (ADC) program.

Thank you for your attention in this matter.

Sincerely,



Charles M. Palmer,
Director

CMP/JH/plr

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September 25, 1990

MEMORANDUM

TO: CHAIRPERSON AVENSON AND MEMBERS OF THE STUDIES COMMITTEE OF THE LEGISLATIVE COUNCIL

FROM: Leslie Workman and Mary Carr, Legal Counsels

RE: Request for a 3rd Meeting for the Financial Access to Higher Education Interim Committee

On behalf of Co-chairpersons Senator John Kibbie and Representative Linda Beatty, and the other members of the Financial Access to Higher Education Committee, Ms. Carr and I respectfully request permission for the Committee to conduct a third meeting. The Committee was originally authorized to hold three meetings and the Co-chairpersons and members believe a third meeting is necessary due to the breadth and nature of the Committee's charge. The charge requires the Committee to study the financial needs of Iowa students and the effectiveness of current financial aid programs in Iowa, to review other states' programs, and to determine how Iowa programs could be modified to ensure access to Iowa's institutions of higher education.

During its first meeting, the Committee heard presentations from the College Student Aid Commission and representatives from both state and private institutions on the effectiveness of current programs and funding allocation. At the Committee's second meeting, the Committee received an update on distribution of current year student aid moneys and the size of student debt loads from the Commission; heard comments from students relating to various difficulties that they and others have encountered under Iowa's financial aid system; and heard a presentation from New York State Assemblyman Ed Sullivan on New York State's T.A.P., Liberty Scholarship, and other student financial aid programs.

A third meeting is necessary for the Committee to develop and discuss various means and methods to improve Iowa's current student financial aid programs.

Studies,0925
lw/jj/15

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October 11, 1990

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TO: SPEAKER AVENSON, CHAIRPERSON,
& MEMBERS OF THE
STUDIES COMMITTEE, LEGISLATIVE COUNCIL

FROM: Doug Adkisson, Legislative Service Bureau

RE: Request for a 3rd Meeting Day
Value-added Processes for Agricultural Products

On behalf of the Value-added Processes for Agricultural Products Study Committee, Senator Riordan and Representative May request approval for a third meeting day. The Committee has held meetings on July 27 and September 24. At the conclusion of the last meeting the Committee without dissent voted to request a third meeting, with members agreeing that one additional meeting is essential to consider presented information and proposals (which relate to promoting the ethanol industry, capitalizing and managing production and processing operations, and developing rural initiatives) before recommendations can be made to the General Assembly.

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DENNIS C. PROUTY
DIRECTOR
515/281-5279

NOV 07
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DES MOINES, IOWA
50319

STATE OF IOWA
LEGISLATIVE FISCAL BUREAU

TO: Senator Hutchins, Chair, Legislative Council
Representative Don Avenson, Co-chair Legislative Council

FROM: Senator Joe Welsh, Co-chair, Legislative Capital Projects Committee
Representative Wayne McKinney, Co-chair, Legislative Capital Projects Committee

DATE: November 6, 1990

RE: Request for Meeting Authorization for the Legislative Capital Projects Committee

The Legislative Capital Projects Committee respectfully requests that they be authorized two meeting days during the FY 1991 interim. The tentative dates for these meetings is December 4 and 5.

Agencies have prepared their FY 1992 and FY 1993 requests for funding of capital projects and the Committee would like to begin reviewing them. Additionally, the Committee wishes to receive updates relating to capitals reports and lease-purchase acquisition information that is beginning to be collected by the Department of Management.

Memo

To: Speaker Donald D. Avenson, Chairperson, Studies Committee

From: Senator Al Sturgeon and Representative Jane Teaford, Co-chairpersons

Date: November 15, 1990

Re: FINAL MEETING DATE

Senator Al Sturgeon and Representative Jane Teaford, Co-chairpersons, Civil Rights Laws in Iowa Study Committee request that the Studies Committee and Legislative Council authorize an extension of time to conclude their third authorized meeting during the first two weeks in December, 1990. The third meeting of the Study Committee was authorized by the Legislative Council at its September meeting.

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M E M O R A N D U M

November 15, 1990

To: CHAIRPERSON AVENSON AND MEMBERS OF THE STUDIES COMMITTEE
From: Senator Richard Varn and Representative Dan Jay
RE: Code Publication Study Committee

The Chairs of the Senate Judiciary Committee and the House Judiciary and Law Enforcement Committee traditionally request the establishment of a Code Publication Study Committee each year to review suggested Code changes to be included in the proposed Code Editor's bills. The Committee, in effect, acts as a Joint Subcommittee of the two Judiciary Committees.

We are requesting the formal establishment of the Code Publication Study Committee again this year, and the authorization of one meeting day. The Committee is traditionally composed of the Chairpersons, Vice-Chairpersons, and Ranking Members of the two chambers' Judiciary Committees. However, three of the six persons holding those positions during the 1990 session have not sought reelection. Consequently we suggest that the membership of the Code Publication Committee this year be based on the anticipated appointments to those positions for the Seventy-Fourth General Assembly.

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November 15, 1990

MEMORANDUM

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TO: Chairperson Avenson and Members of the Studies Committee

FROM: John Pollak, Research Analyst

RE: MediPASS Implementation Oversight Study Committee Request
for Deadline Extension.

I am writing at the request of Senator Elaine Szymoniak and Representative Pat Harper, Co-chairpersons of the MediPASS Implementation Oversight Study Committee. The Co-chairpersons request approval for the Study Committee to hold its second and final meeting after the November 30 deadline. If approved, the Co-chairpersons intend to schedule the meeting in early January before the start of the legislative session.

The Study Committee held its first meeting on October 8. It was learned during the meeting that the first evaluation report for the program will be delivered in early January. The Co-chairpersons would like to delay its final meeting in order to consider this report.

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