

## **Multiple Family Cases – Other Children of the Obligor Not Residing in the Obligor's Home – Applicability Not Limited to Situations where Support Order Exists for Other Children of the Obligor Not Residing in the Obligor's Home (IC-CO-00-11)**

### **Child Support Guidelines, N.D. Admin. Code § 75-02-04.1-06.1(1)(a)**

**Question:** Does the multiple-family adjustment for other children of the obligor (i.e., children who are not involved in the proceeding before the court) who are not living in the obligor's home apply only when there is an order for the obligor to provide support for those other children?

**Answer:** No. The multiple-family adjustment is applicable in those cases in which the obligor has other children who are not living in the obligor's home whether or not the obligor is ordered to provide support for those children.

N.D. Admin. Code § 75-02-04.1-06.1, regarding the determination of support in multiple-family cases, was added to North Dakota's child support guidelines in 1995. Prior to that time, obligors were entitled to a deduction from gross income for payments actually made for the support of other children provided those payments were made pursuant to an order of the court or government agency with authority to issue such orders. However, this approach failed to account for the cost of supporting a child of the obligor who resided with the obligor (such as a child by the obligor's current spouse) since it was highly unlikely that such a child would be covered by an order and further failed to account for the cost of supporting a child of the obligor who did not reside with the obligor and who, for whatever reason, was not covered by a support order. Another problem with this approach was that although it purported to give priority to the "first family" it actually operated to give preference to the children covered by the first support order to be entered. It was determined that this approach did not represent sound public policy.

Effective January 1995 and continuing to the present time, North Dakota's child support guidelines provide a mechanism for determining support in multiple-family cases. Specifically, N.D. Admin. Code § 75-02-04.1-06.1(1)(a) directs that this mechanism must be used "in all cases involving an obligor who owes duties of support payable to two or more obligees . . ." (emphasis added) Applicability of this provision is not conditional upon the existence of a support order covering the other children but only upon the existence of two or more obligees. The definition of "obligee" includes a person to whom a duty of support is owed and a person who is alleged to be owed a duty of support. (See N.D. Admin. Code § 75-02-04.1-01(8) referring to N.D.C.C. § 14-09-09.10.)

**References:** Summary of Comments Received in Regard to Proposed Amendments to N.D. Admin. Code ch. 75-02-04.1, Child Support Guidelines, dated November 14, 1994 and Summary of Comments Received in Regard to Proposed Amendments to N.D. Admin. Code ch. 75-02-04.1, Child Support Guidelines, dated June 14, 1999.

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