The Gross Income Basis for Child Support Guidelines

Child Support Advisory Committee Meeting

July 23, 2012

Title IV-D Child Support Program Cases

- The vast majority of child support cases in Illinois are part of the Title IV-D child support program.

- Last year, more than **75%** of the cases with child support payments to the State Disbursement Unit were IV-D cases. Less than **25%** involved parents using private attorneys.

Title IV-D Child Support Program Cases

- Last year, HFS referred over **90,000** child support cases to its legal representatives.

- Those child support cases resulted in almost 67,000 support orders in 2011.
  - 52,802 new support orders
  - 13,903 modification orders
  - 66,705 child support orders total

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- Of these 66,705 orders, child support was set *per month* as follows:

Range	Total Number of Orders
- $0 - $49.99	8,968
- $50 - $99.99	4,274
- $100 - $149.99	5,627
- $150 - $199.99	5,380
- $200 - $249.99	11,544
- $250 - $299.99	5,272
- $300 - $399.99	9,036
- $400 - $499.99	6,582
- $500 or greater	10,022

Title IV-D Child Support Program Cases

- 85% of the Title IV-D program cases (56,683) had child support set at less than $500 per month, meaning that the annual net income of most non-custodial parents is under $30,000.

- Only 15% of the cases (10,022) had non-custodial parents with net income over $30,000, and child support set at $500 or more per month.

Title IV-D Child Support Program Cases

- Most of the parents in the child support program are low income to lower-middle class income levels.

- Income from employment fluctuates.

- 70% of non-custodial parents in the child support program claim single taxpayer status with one exemption.

Advantages of Using Gross Income

- For the Title IV-D program, A Gross Income Model Is Better Than a Net Income Model.

- Why?

- **Most Importantly, Because Both Models Result in Very Similar Child Support Orders In Most Cases.**

Advantages of Using Gross Income

- The Gross Income Model:
  - Requires **Significantly Less Time** to Calculate Support
    - Circular E v. Year End 1040
    - IL Tax Publication
    - FICA
  - Saves Precious State and Court Resources
  - Easier for *Pro Se* Litigants and Courts

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Advantages of Using Gross Income

- And the Gross Income Model:
  - Is Simple to Use Without Expensive Technology
  - Is More Resistant to Manipulation by the Parties/Attorneys
  - Requires Less Information From the Parties
  - Is More Transparent

Advantages of Using Gross Income

- Rather than have *all* child support cases going through a net income calculation, where the time and expense is *not* justified, consider:
  - A Separate Business Owner Statutory Calculation *and*
  - A Gross Income Model with A Statutory Deviation (Mandatory or Permissive) *or*
  - A simple, easy to use Gross to Net Income Calculator.

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CASE STUDY 1 FROM AGO CASES

Non-custodial parent (NCP) is a single W-2 wage earner who works at Clean-Fire Log Company.

Monthly Gross income: $2,240
- *Federal Income tax* (Circular E, single, 2 ex): **$181**
- *State Income tax* (IL-700 Book, 2 ex): **$95**
- *FICA* (current 5.65%): **$127**
- *Monthly healthcare premium*: **$126**
- *Net income w/o healthcare premium deduction*: **$1,837**
- *Net income w/ healthcare premium deduction*: **$1,711**

The parties have one child together, age 9. NCP claims the child on his tax return.

Custodial parent (CP) has remarried and is not currently employed.
She stays home to care for her other child, who was born last year.

Monthly Gross income: Tested levels at $0, $1,000, $2,000, $3,000

Net income (using Circular E, married, 3 ex for federal tax; IL-700 book, 3 ex for State; and FICA at 5.65%): $0, $918, $1,773, $2,566

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CASE STUDY 1 FROM AGO CASES

Scenario 1

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	**Combined Net**	**Net**
NCP $2,240 gross $1,837 net	$2,240 Total support $400 + $126 = $526	$1,837 Total support $403 + $126 = $529	$1,711 w/ HI
CP $0 gross $0 net	NCP's order if he pays premium $526 - $126 = **$400**	NCP's order if he pays premium $529 - $126 = **$403**	**$342**
Insurance Premium $126	NCP's order, no premium **$400**	NCP's order, no Premium **$403**	**$367**

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CASE STUDY 1 FROM AGO CASES

Scenario 2

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	**Combined Net**	**Net**
NCP $2,240 gross $1,837 net	$3,240 Total support $560 + $126 = $686	$2,755 Total support $596 + $126 = $722	$1,711 w/ HI
CP $1,000 gross $918 net	NCP's order if NCP pays premium $474 - $126 = **$348**	NCP's order if NCP pays premium $481 - $126 = **$355**	NCP's order if NCP pays premium **$342**
Insurance Premium $126	NCP's order if CP pays premium **$474**	NCP's order if CP pays premium **$481**	NCP's order if CP pays premium **$367**

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CASE STUDY 1 FROM AGO CASES

Scenario 3

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	**Combined Net**	**Net**
NCP $2,240 gross $1,837 net	$4,240 Total support $702 + $126 = $828	$3,610 Total support $764 + $126 = $890	$1,711 w/ HI
CP $2,000 gross $1,773 net	NCP's order if NCP pays premium $437 - $126 = **$311**	NCP's order if NCP pays premium $453 - $126 = **$327**	NCP's order if NCP pays premium **$342**
Insurance Premium $126	NCP's order if CP pays premium **$437**	NCP's order if CP pays premium **$453**	NCP's order if CP pays premium **$367**

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CASE STUDY 1 FROM AGO CASES

Scenario 4

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	**Combined Net**	**Net**
NCP $2,240 gross $1,837 net	$5,240 Total support $803 + $126 = $929	$4,403 Total support $851 + $126 = $977	$1,711 w/ HI
CP $3,000 gross $2,566 net	NCP's order if NCP pays premium $397 - $126 = **$271**	NCP's order if NCP pays premium $408 - $126 = **$282**	NCP's order if NCP pays premium **$342**
Insurance Premium $126	NCP's order if CP pays premium **$397**	NCP's order if CP pays premium **$408**	NCP's order if CP pays premium **$367**

Notes from Case Study 1

- Very small differences between child support using net and gross income, especially at the lower income range.
  - $3 per month if CP has $0 income
  - $7 per month if CP has $1,000 income
  - $16 per month if CP has $2,000 income
  - $11 per month if CP has $3,000 income

Notes from Case Study 1

- And, if there is one minor change where the CP, instead of the NCP, claims the child on her tax return and everything else remains the same, the gross and net income models are almost **identical**.

- If CP earns $1,000 gross:
  - Support using Gross = **$348** month
  - Support using Net = **$343** month

Notes from Case Study 1

- If CP earns $2,000 gross:
  - Support using Gross = **$311** month
  - Support using Net = **$316** month

- If CP earns $3,000 gross:
  - Support using Gross = **$271** month
  - Support using Net = **$272** month

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CASE STUDY 2 FROM AGO CASES

Non-custodial parent (NCP) is a single mother who works at America's Best Value Inn and is a W-2 wage earner.

Monthly Gross income: $924
- *Federal Income Tax* (Circular E, single, 1 ex): $44
- *State Income Tax* (IL-700 Book, 1 ex): $38
- *FICA* (current 5.65% level): $52
- *Net income, no insurance available*: $790

Custodial parent (CP) is a married father. Parties have one child age 12; CP has one other dependent, and claims the parties' child on his tax return.

Monthly Gross income: Tested levels at $0, $1,000, $2,000, $3,000

Net income (using Circular E, married, 4 ex for federal; IL-700 book, 4 ex for State; FICA at 5.65%): $0, $927, 1,813, $2,606

Actual: Father works for Maverick Transportation and earns $2,467 per month gross. He does not have health insurance available. Net income (using Circular E, married, 4 ex for federal; IL-700 book, 4 ex for State; & FICA at 5.65%) = $2,187

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CASE STUDY 2 FROM AGO CASES

Assumptions	Support Using Gross	Support Using Net	Support Current
Actual	**Combined Gross**	**Combined Net**	**Net**
NCP $924 gross $790 net	$3,395 Total support $584	$2,977 Total support $648	$790
CP $2,467 gross $2,187 net	NCP's order **$160**	NCP's order **$172**	NCP's order **$158**

Assumptions	Support Using Gross	Support Using Net	Support Current
Scenario 1	**Combined Gross**	**Combined Net**	**Net**
NCP $924 gross $790 net	$924 Total support $95	$790 Total support $92	$790
CP $0 gross $0 net	NCP's order **$95**	NCP's order **$92**	NCP's order **$158**

CASE STUDY 2 FROM AGO CASES

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	Combined Net	Net
NCP $924 gross $790 net	$1,924 Total support $344	$1,717 Total support $370	$790
CP $1,000 gross $927 net	NCP's order **$165**	NCP's order **$170**	NCP's order **$158**

CASE STUDY 2 FROM AGO CASES

Scenario 3

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	**Combined Net**	**Net**
NCP $924 gross $790 net	$2,924 Total support $505	$2,603 Total support $564	$790
CP $2,000 gross $1,813 net	NCP's order **$160**	NCP's order **$171**	NCP's order **$158**

CASE STUDY 2 FROM AGO CASES

Scenario 4

Assumptions	Support Using Gross	Support Using Net	Support Current
	Combined Gross	**Combined Net**	**Net**
NCP $924 gross $790 net	$3,924 Total support $658	$3,396 Total support $726	$790
CP $3,000 gross $2,606 net	NCP's order **$155**	NCP's order **$169**	NCP's order **$158**

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Closing Notes: Advantages of Using Gross Income

- Very conservatively, it takes at least 10 minutes longer on a normal IV-D case to apply the net income model than the gross income model.
  - Need to gather additional information from the parties (now *both* parties)
  - Need to do the calculations – pull numbers form Circular E and IL tax book, and calculate FICA.

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Closing Notes: Advantages of Using Gross Income

- Last year, there were 90,913 court cases in the IV-D program.

- There were 66,705 **new** child support orders last year in the IV-D program.

Closing Notes: Advantages of Using Gross Income

- Requiring the child support program to conduct a net income calculation on all of these cases costs the State at least **111,175 hours** of resources **more** than adopting the gross income model or having an automatic, simple gross to net income calculator.

- That time equals **13,897 business (8 hour) days**.

Closing Notes: Advantages of Using Gross Income

- It does not make sense to require net income calculations for all IV-D cases.
  - Very small differences in child support calculations between the gross and net income models *and*
  - The substantial burden on State resources

Closing Notes: Advantages of Using Gross Income

- Two options:
  - Adopt a Gross Income Model and presume it applies, but have a specific self-employed/business owner provision *and* allow for deviations

    Or

  - Have a gross to net income calculator
    - Technology will be needed for the IV-D attorneys and judges