

## **APPENDIX IX-B USE OF THE CHILD SUPPORT GUIDELINES**

(Includes Amendments through those effective September 1, 2009)

### **GENERAL INFORMATION**

#### **Completion and Filing of the Worksheet**

A child support guidelines worksheet must be completed and made part of the permanent Family Division case file for each child support order established or modified using the child support guidelines.

#### **Use of Weekly Amounts**

All financial information entered on the worksheets must be based on weekly amounts. For monthly amounts, divide by 4.3. For annual amounts, divide by 52.

#### **Rounding to Whole Dollars and Percentages**

Dollars and percentages (ratios) should be rounded to whole numbers. Amounts less than 50 cents should be dropped. For example, \$340.35 is \$340. Increase amounts that are 50 cents or more to the next whole dollar. For example, \$540.58 is \$541.

Percentages (ratios) should be rounded to two decimal places in the same manner. For example, 0.343 is 0.34 and 0.456 is 0.46.

#### **Defining Parental Roles**

**Sole Parenting - A Custodial Parent** is a parent who has physical custody of the children and provides for their needs on a day-to-day basis. This parent is generally the obligee of the support order. A *Non-Custodial Parent* is a parent who does not have physical custody of the children on a regular basis but may exercise periodic PAR Time privileges (if time sharing exceeds the substantial equivalent of two or more overnights per week, a shared-parenting situation may exist). This parent is generally the obligor of the support order. See Appendix IX-A, paragraph 13.

**Shared Parenting - A Parent of Primary Residence (PPR)** is a parent who provides a residence for the child for more than 50% of overnights annually or, if sharing is equal, provides the residence for the child while he or she is attending school. The PPR may be either the obligee or obligor depending on the parents' income and amount of time spent with the child. A *Parent of Alternate Residence (PAR)* is a parent who provides an overnight residence for the child when he or she is not with the PPR. See Appendix IX-A, paragraph 14(b).

<b>Selection of a Worksheet</b>
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***Sole Parenting*** - The Sole-Parenting Worksheet (Appendix IX-C) shall be used in the following cases: no time sharing (i.e., the child resides with a parent 100% of the time), shared parenting (PAR Time) below the substantial equivalent of two or more overnights per week (28% of overnights), split parenting (i.e., multiple children; at least one child residing with each parent), and shared-parenting situations in which an adjusted award results in the PPR's net household income falling below the PPR household income reserve set forth in Appendix IX-A, paragraph 14(d).

***Shared Parenting*** - The Shared-Parenting Worksheet (Appendix IX-D) shall be used if the Parent of Alternate Residence has the child for the substantial equivalent of two or more overnights per week, excluding extended PAR Time (e.g., vacations) and has shown that separate living accommodations for the child are provided in the alternate household (see shared parenting standards in Appendix IX-A, paragraph 14(c)).

**LINE INSTRUCTIONS FOR THE SOLE-PARENTING WORKSHEET**

**Caption**

**Enter** the names of the parties, the county of venue, the docket number, and the number of children for whom support is being determined. Check-off whether the custodial parent is the plaintiff or defendant.

**Lines 1 through 5 - Determining Income**

**Gross Income** - For the purpose of these guidelines, *gross income* is all earned and unearned income that is recurring or will increase the income available to the recipient over an extended period of time. When determining whether an income source should be included in the child support guidelines calculation, the court should consider if it would have been available to pay expenses related to the child if the family would have remained intact or would have formed and how long that source would have been available to pay those expenses.

**Sources of Income** - *Gross income*, includes, but is not limited to, income from the following sources:

- a. compensation for services, including wages, fees, tips, and commissions;
- b. the operation of a business minus ordinary and necessary operating expenses (see IRS Schedule C);
- c. gains derived from dealings in property;
- d. interest and dividends (see IRS Schedule B);
- e. rents (minus ordinary and necessary expenses - see IRS Schedule E);
- f. bonuses and royalties;
- g. alimony and separate maintenance payments received from the current or past relationships;
- h. annuities or an interest in a trust;
- i. life insurance and endowment contracts;
- j. distributions from government and private retirement plans including Social Security, Veteran's Administration, Railroad Retirement Board, deferred compensation, Keoughs and IRA's;
- k. personal injury awards or other civil lawsuits;
- l. interest in a decedent's estate or a trust;
- m. disability grants or payments (including Social Security disability);
- n. profit sharing plans;
- o. worker's compensation;
- p. unemployment compensation benefits;
- q. overtime, part-time and severance pay;
- r. net gambling winnings;
- s. the sale of investments (net capital gain) or earnings from investments;
- t. income tax credits or rebates (excluding the federal and state Earned Income Credit and the N.J. homestead rebate);
- u. unreported cash payments (if identifiable);

- v. the value of in-kind benefits; and
- w. imputed income (see Appendix IX-A, paragraph 12).

***Income from self-employment or operation of a business.***

- a. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Personal income from the operation of a business includes all income sources listed above and *potential cash flow* resulting from loans taken from the business.
- b. Income and expenses from self-employment or the operation of a business should be carefully reviewed to determine gross income that is available to the parent to pay a child support obligation. In most cases, this amount will differ from the determination of business income for tax purposes.
- c. Specifically excluded from ordinary and necessary expenses, for the purposes of these guidelines, are expenses allowed by the IRS for:
  - 1) the accelerated component of depreciation expenses;
  - 2) first-year bonus depreciation;
  - 3) depreciation on appreciating real estate;
  - 4) investment tax credits;
  - 5) home offices;
  - 6) entertainment;
  - 7) travel in excess of the government rate;
  - 8) non-automobile travel that exceeds standard rates;
  - 9) automobile expenses;
  - 10) voluntary contributions to pension plans in excess of 7% of gross income;
  - and
  - 11) any other business expenses that the court finds to be inappropriate for determining gross income for child support purposes.

***Sporadic Income***

- a. If income from any source is sporadic or fluctuates from year-to-year (e.g., seasonal work, dividends, bonuses, royalties, commissions), the amount of sporadic income to be included as *gross income* shall be determined by averaging the amount of income over the previous 36 months or from the first occurrence of its receipt whichever time is less.
- b. For overtime pay or income from a second job, the average is based on the prior 12 months or first receipt whichever time is greater.
- c. The court may exclude sporadic income if the party can prove that it will not be available in an equivalent amount in the future.

**Military Pay** - All military pay and allowances shall be included as gross income for determining child support (see *Rose vs. Rose*, 107 S. Ct. 2029 (1987)).

- a. All service members receive Basic Allowance for Quarters (BAQ) and Basic Allowance for Subsistence (BAS) or live in government accommodations and eat at mess halls for free. If BAQ and BAS are not received due to government-provided accommodations and food, the value of such in-kind income may be included in the service member's gross income.
- b. BAQ, BAS, and Variable Housing Allowances (VHS) are considered income for the purposes of determining child support. These forms of income are not subject to tax.

**In-Kind Income** - The fair-market value of goods, services, or benefits received in lieu of wages and in the course of employment shall be included as gross income if they reduce personal living expenses of the recipient regardless of whether they are derived from an employer, self-employment, or the operation of a business. Examples of in-kind goods, services and benefits include vehicles, automobile insurance, free housing, meals, benefits selected under a cafeteria plan, memberships, or vacations. Expense reimbursements are not considered income.

**Alimony, Spousal Support, and/or Separate Maintenance Received** - Alimony, spousal support, or separate maintenance payments received from a spouse or former spouse in accordance with a court order are considered gross income to the recipient. If child support and alimony, spousal support, or separate maintenance are being determined **simultaneously** (for the same family), the court should set the alimony, spousal support, or separate maintenance first and include that amount in the recipient's gross income (on Line 1c) before applying the child support guidelines, except in *pendente lite* situations. Alimony, spousal support, or maintenance payments that are being paid to former spouses or will be paid in the future (to the spouse in the current action) are excluded from the payor's income (on Line 1b).

**Types of Income Excluded from Gross Income** - The following types of income are excluded from *gross income*:

- a. means-tested income (i.e., based on the fact that the recipient has minimal income and requires government assistance to live) including, but not limited to, Temporary Assistance to Needy Families (TANF), Deficit Reduction Act (DEFRA), General Assistance, Refugee Assistance, rent subsidies, food stamps, and Supplemental Security Income for the Aged, Blind or Disabled;
- b. alimony, spousal support, or separate maintenance payments (the net amount after adjusting for the tax benefits, if known) to a current or former spouse;
- c. child support received for children of another relationship;
- d. non-income producing assets (e.g., undeveloped real estate, automobiles, jewelry, art, stocks and bonds) unless the court finds that the intent of the investment was to avoid the payment of child support;

- e. income from children, unless the court determines that such income should be included because the child is a professional or has substantial income that reduces the family's living expenses;
- f. income from other household members (e.g., step-parents, grandparents, current spouse) who are not legally responsible for the support of the child for whom support is being established except to determine the other-dependent credit (the income of the current spouse may be included if an other-dependent deduction is requested - see Appendix IXA, paragraph 10).
- g. a government benefit based on a parent's earnings record, disability, or condition that is paid to or for the child (or the child's caretaker) for whom support is being determined (e.g., Black Lung, Veteran's Disability, Social Security) or other non-means-tested government benefits meant to reduce the cost of the child (e.g., adoption subsidies as provided by N.J.A.C. 10:121-2);
- h. for modifications involving retirement income, the pro-rated amount of contributions to a voluntary plan that were previously included in gross income when the current support order was established;
- i. financial assistance for education including loans, grants, scholarships, veteran's education benefits, and awards provided under the National and Community Service Act of 1990 (except post-service benefits); and
- j. federal earned income tax credits.

***Collecting and Verifying Income Information***

- a. Prior to the commencement of a hearing to establish or modify child support, the parties shall submit either a Case Information Statement (*R. 5:5-2*) or a Financial Statement in Summary Support Actions (*R. 5:5-3*) to the court.
- b. When possible, the court should determine gross income as follows:
  - 1) Prior to June 30 of the current year, use Federal and State income tax returns, W-2 statement(s) and IRS 1099's from the preceding year. If tax documentation is unavailable, use any other available evidence of current earnings (e.g., paystubs, employer wage verifications, or, for the self-employed, statements of business receipts and expenses). If a joint income tax return includes income of a person other than one of the parties involved in the support proceeding (e.g., a current spouse), the taxpayer or that person's attorney shall be responsible for the redaction of the tax return.
  - 2) After June 30, use the year-to-date income figure from all documented sources listed above. Divide the total gross income from all sources by the number of employed weeks to determine the weekly gross income.
  - 3) If no income documentation is available, income may be determined through testimony or imputed as set forth in Appendix IX-A, para. 10.

*Note on Income Documentation:* The review of a paystub, W-2 form, IRS-1099 form or tax return may not provide all necessary income information for a parent. The accurate determination of income may be dependent on a combination of these documents and

testimony. Also, note that a parent may have more than one W-2 wage statement if that person worked for multiple employers during the year.

**Taxable and Non-Taxable Income** - Before determining Net Income, gross income must be separated into taxable and non-taxable portions to ensure that withholding taxes are deducted only from taxable gross income. Generally, the types of income listed below are not subject to tax. Other types of income may be non-taxable depending on the status of the taxpayer or the source of income. For more information on taxable and non-taxable income, refer to IRS Publication 525 (Taxable and Non-Taxable Income) or, for New Jersey income taxes, see N.J.S.A. 54A:6-1 and NJ-WT. The following items are considered income to the parents, but should not be used to calculate withholding or income taxes when determining net income.

1. *Income Not Subject to Federal Income Tax*

- a. Accident and health insurance proceeds;
- b. Black-lung benefits;
- c. Child support payments;
- d. Federal Employees Compensation Act payments;
- e. Interest on state or local obligation;
- f. Scholarships and fellowships grants;
- g. Veteran's benefits;
- h. Worker's compensation;
- i. Life insurance proceeds paid due to death of the insured;
- j. Social Security benefits. However, if the taxpayer has income of more than \$25,000 if single or \$32,000 if married and filing a joint return some of the benefits may be taxable (see IRS Publication 915);
- k. Casualty insurance and other reimbursements; and
- l. Earnings from tax-free government bonds or securities.

2. *Income Not Subject to New Jersey State Income Tax*

- a. Federal Social Security benefits;
- b. Railroad Retirement benefits;
- c. Proceeds of life insurance contracts payable by reason of death;
- d. Employee's death benefits;
- e. The value of property acquired by gift, bequest, devise or inheritance except income from any such property or if the gift, bequest, devise or inheritance is income;
- f. Amounts received under worker's compensation including income from suits, agreements, accident or health insurance resulting from personal injuries or sickness;
- g. Compensation paid by the United States for services in the Armed Forces performed by an individual not domiciled in New Jersey;
- h. Grants or scholarships received from education institutions;
- i. Payments of up to \$10,000 for a married couple filing jointly, \$5,000 for a married couple filing separately and \$7,500 for a single taxpayer from an annuity, endowment or life insurance contract or payments of any such amount received

- as pension, disability or retirement benefits for persons at least 62 years old or disabled under Social Security;
- j. New Jersey Lottery winnings;
  - k. Permanent and total disability benefits under a public or private plan and certain accident/health insurance benefits including Veteran's benefits;
  - l. Unemployment Insurance and Temporary Disability benefits;
  - m. Interest on obligations issued by the State or any county, municipality, school or other governmental body of New Jersey and obligations statutorily free from tax under State or federal law;
  - n. Amounts contributed by an employer on behalf of an employee to a trust which meets the requirements of IRC section 401(K) are not taxable in the year when made;
  - o. Earnings from tax-free government bonds or securities; and
  - p. Income Tax Refunds (state or federal).

*Note on Social Security Taxes:* Social Security tax withholding (FICA) for high-income persons may vary during the year. In the early part of the year, 6.2% is withheld on the first \$106,800 of gross earnings (for wage earners in 2009). After the maximum \$6,622 is withheld, no additional FICA taxes are withheld. Thus, pay stubs issued early in the year may understate net income, while those issued later in the year may overstate it. To estimate weekly FICA taxes, amortize the annual FICA tax using the number of weeks employed or use the Appendix IX-H combined tax tables. Note that self-employed persons must pay the full FICA tax (12.4%) up to the \$106,800 limit and the full Medicare tax rate (2.9%) on all earned income.

**Analyzing Income Tax Returns** - For assistance in analyzing income tax returns to determine parental income, see American Bar Association, Section of Family Law, *The 1040 Handbook: A Guide to Income and Asset Discovery* 2d., 1993.

#### **Line 1 - Gross Taxable Income**

**Enter** the weekly gross taxable income of each parent in the appropriate Line 1 column.

Non-taxable income is entered on Line 4.

#### **Line 1a - Mandatory Retirement Contributions**

**Enter** the weekly mandatory retirement contributions for each parent in the appropriate Line 1a column.

Contributions to retirement or pension plans that are mandatory (i.e., required as a condition of employment) are not considered income for determining child support obligations. Since mandatory pension contributions are generally non-taxable, the amount of such payments must be deducted from gross income before withholding taxes and the Adjusted Gross Taxable Income are calculated. Voluntary payments to Deferred Compensation Plans (e.g., 401K, 414B), Keoughs, and IRA's should not be

deducted from gross income. Calculate the weekly amount of mandatory retirement contributions by dividing the year-to-date contributions by the number of weeks employed or by using an average of the prior year's contributions.

### Line 1b - Alimony Paid

**Enter** the weekly amount of alimony or other form of spousal support that is paid or will be paid to a former spouse in the appropriate Line 1b column.

When established simultaneously with child support (for the same family), the amount of alimony, spousal support, or separate maintenance should be determined before the child support guidelines are applied, except in *pendente lite* situations. Once the amount of alimony, spousal support, or separate maintenance is set, it is deducted from the payor's gross income and added to the recipient parent's gross income for the purposes of calculating a child support award using the guidelines.

### Line 1c - Alimony Received

**Enter** the weekly amount of alimony or other spousal support that is received or will be received from a former spouse (i.e., includes payments from the current as well as any past relationships) in the appropriate Line 1c column.

To determine whether a payment from a former spouse is considered alimony or separate maintenance, see 26 U.S.C. 71.

### Line 2 - Adjusted Gross Taxable Income

**Subtract** mandatory retirement contributions and alimony paid from the gross taxable income and **Add** any alimony received to the gross taxable income to obtain the adjusted gross taxable income. Enter each parent's adjusted gross taxable income in the appropriate Line 2 column. [Math: Line 1 - Line 1a - Line 1b + Line 1c]

### Line 2a - Withholding Taxes

**Enter** each parent's combined weekly federal, state, and local withholding taxes in the appropriate Line 2a column.

Once the taxable portion of gross income is determined, the combined federal, state, city (if applicable), Social Security, and Medicare withholding taxes are deducted. As set forth below, four methods are available to determine the amount of combined income tax withholding to be deducted from gross income.

1. Combined Income Tax Withholding Tables (Appendix IX-H) - To use the combined tax withholding tables, the gross taxable income and the number of withholding allowances claimed must be known.

- a. Income tax withholding is meant to be consistent with end-of-year tax obligations to avoid the need for payments or refunds. Generally, individuals may claim from zero to two withholding allowances for themselves, one for a spouse, and one for

each dependent. Starting in the 1998 tax year, additional allowances may be claimed to accommodate the new child tax credit (see paragraph b). The number of withholding exemptions claimed may vary with the taxpayer's marital status, number of jobs held, estimated adjustments to income, and the employment status of the taxpayer's spouse (see Section 3402 of the Internal Revenue Code, IRS Form W-4, or IRS Pub. 505).

- b. Individuals must justify claiming fewer withholding exemptions than allowed since this may result in less available gross income per payroll period and may provide the taxpayer with a substantial refund at the end of the year that will not be considered when determining the child support award. Unless a party can show good cause for claiming fewer withholding allowances than permitted, the following standards shall be used to determine withholding taxes from the Appendix IX-H Combined Tax Withholding Tables:

- (1) one withholding allowance for the parent;
- (2) one withholding allowance for a current spouse;
- (3) one withholding allowance for each dependent child; and
  - (a) for incomes less than \$61,000 if unmarried or less than \$90,000 if married, two allowances for each eligible child, subtracting one withholding allowance if there are three or more eligible children; or
  - (b) for incomes between \$61,000 and \$84,000 if unmarried or between \$90,000 and \$119,000 if married, one allowance for each eligible child plus one additional allowance if there are six or more eligible children

(To determine eligibility, see IRS Form W-4 and 26 U.S.C.A. § 24).

**NOTE:** The combined tax withholding table may not result in the correct tax withholding amount if significant portions of the parent's income are not subject to FICA/Medicare tax (e.g., alimony, rents, dealings in property, interest income), if wages for federal income tax and the FICA/Medicare tax differ, or if the parent is self-employed (requires payment of the full FICA/Medicare tax rate on 92.35% of income - see IRS Pub. 533 or Schedule SE). Generally, unearned income is not subject to the FICA/Medicare tax. See the notes at the end of the Appendix IX-H combined tax withholding table.

2. End-of-Year Tax Obligations - If the award is being calculated before June 30 of the current year and the prior year's federal and state income tax return forms, and Forms W-2 are available, the tax obligation may be calculated as follows:

- a. add the end-of-year income tax obligation (i.e., total tax) from the federal and state tax return forms, the W-2 Social Security tax withheld, and the W-2 Medicare tax withheld.
- b. divide the sum of the taxes by 52.

3. Year-to-Date Calculation - If the award is being calculated after June 30 of the current year and a check stub (which represents the parent's only income source) is available, add the year-to-date federal, state, Social Security and Medicare withholding taxes and divide the sum by the number of weeks employed.

4. Self-Employed Persons - For persons whose income is derived from self-employment or the operation of a business, the court should carefully review personal and business income tax returns (State and federal) and IRS-1099 statements from the most recent tax year to determine the amount of taxes to be deducted from gross income.

Note: the method of determining withholding taxes and each parent's number of allowances and marital status must be documented in the Comments section (Line 6) of the worksheet.

#### **Line 2b - Prior Child Support Orders**

**Enter** the weekly amount of previously ordered child support in the appropriate Line 2b column.

Since previously ordered child support of other relationships represents income that is not available for determining the current child support obligation, the amount of such orders must be deducted from the obligor's weekly Adjusted Gross Taxable Income (in anticipation of the payment of the order).

In cases where the obligor must pay support to multiple families, considering these amounts in the guidelines worksheet may result in the obligor's net income falling below the self-support reserve, seriously affecting the support order for the most recent support case. In these instances, it may be necessary for the court to deviate from the guidelines.

#### **Line 2c - Mandatory Union Dues**

**Enter** each parent's weekly mandatory union dues in the appropriate Line 2c column.

Union dues must be mandatory (i.e., required as a condition of employment) to be eligible as a deduction from a parent's adjusted gross income. Calculate the weekly amount of mandatory union dues by dividing the year-to-date dues paid by the number of employed weeks or by using an average of the prior year's dues payments.

#### **Line 2d - Other-Dependent Deduction**

**Enter** the theoretical weekly child support obligation for other legal dependents (from Line 14 of the Sole-Parenting worksheet prepared for the alternate family) on Line 2d of the worksheet of the parent requesting the adjustment. The Line 14 amount represents the parent's income share of the total marginal costs for the children in the alternate family. The obligation amount for other legal dependents (the other-dependent deduction) should be calculated on a separate Sole-Parenting Worksheet.

The other-dependent deduction is part of an adjustment mechanism to apportion a parent's income to all legal dependents including those born before or after the children for whom support is being determined. Legal dependents include adopted or natural children of either parent who are under 18 years of age or over 18 years of age and still attending high school or other secondary school. No adjustment is provided for stepchildren. Generally, stepchildren are considered the legal responsibility of their natural parents unless the court determines that a stepparent has a legal obligation to support the child.

The adjustment requires that three support obligations be calculated - a theoretical support obligation for the other dependents in the alternate family, a support obligation that includes the other-dependent deduction, and a support obligation that does not include the other-dependent deduction. The deduction and the adjusted support obligation are calculated only if requested by a serial family parent and the income of the other parent in the alternate family is provided to the court.

1. The amount of the deduction is the serial parent's theoretical support obligation for the other legal dependents. It requires that a separate Sole-Parenting child support guidelines worksheet be completed (through Line 14) for the children in the alternate family with the serial parent being the theoretical obligor of those children. The deduction is calculated based on the income of the parent claiming the deduction and the income of that person's current spouse.
2. A parent must disclose the gross income of the other parent in the alternate family as a condition to the right to claim this deduction. If the other parent in the secondary family is voluntarily unemployed or underemployed, the court may impute income to that person to determine the parent's obligation to the children in the secondary family.
3. The amount of the deduction shall not be calculated for alternate families having more than six children. In such cases, the court may find that the guidelines are inapplicable and may establish the child support award based on the factors set forth in *N.J.S.A. 2A:34-23* and existing case law.

### Line 3 - Net Taxable Income

**Subtract** the combined withholding tax, prior child support orders, mandatory union dues, and the other-dependent deduction\*, if any, from the Adjusted Gross Taxable Income to obtain the Net Taxable Income. [Math: Line 2 - Line 2a - Line 2b - Line 2c - Line 2d]. **Enter** each parent's Net Taxable Income in the appropriate Line 3 column.

***\*If the other-dependent adjustment is requested,*** three worksheets must be prepared: (1) one calculating the parent's theoretical obligation to dependents in the secondary family, (2) one calculating a support award after deducting the theoretical obligation from the parent's net income, and (3) one calculating the support award as if there were no other dependents (i.e., the theoretical obligation without the other dependent deduction). Thus, the other-dependent deduction is not always deducted when figuring net income. The support award is adjusted for other dependents at the end of the worksheet (Lines 21 through 23).

**Line 4 - Non-Taxable Income**

**Enter** each parent's weekly gross non-taxable income in the appropriate Line 4 column.

Enter the source or type of non-taxable income in the space provided on Line 4 or in the Comments section of the Worksheet.

**Line 5 - Net Income**

**Add** the Net Taxable Income and the Non-Taxable Income to obtain the weekly Net Income. [Math: Line 3 + Line 4]. Enter each parent's Net Income in the appropriate Line 5 column.

**Add** the net incomes of the parents to obtain the Combined Net Income [Math: Line 5 Custodial Parent + Line 5 Non-Custodial Parent = Line 5 Combined]. **Enter** the result on Line 5, Combined.

**Line 6 - Percentage Share of Income**

**Divide** each parent's net income by the combined net income to obtain each parent's percentage share of income. [Math: Line 5 Custodial Parent  $\div$  Line 5 Combined = Custodial Parent Line 6 Percentage Share; Line 5 Non-Custodial Parent  $\div$  Line 5 Combined = Non-Custodial Parent Line 6 Percentage Share]. The sum of the two percentages (ratios) must equal one (the decimal equivalent of 100%). **Enter** each parent's income share in the appropriate Line 6 column.

**Line 7 - Basic Child Support Amount**

**Look-up** the Basic Child Support Amount from Appendix IX-F award schedule. Select the appropriate amount for the number of children for whom support is being determined and the Line 5 combined net income of the parents. **Enter** the Basic Child Support Amount on Line 7.

The parents' combined net income and the number of children for whom support is being determined are used to obtain the basic child support amount from the Appendix IX-F schedules. Appendix IX-F combined net incomes are provided in \$10 increments. For incomes that fall between income increments, go to the next higher income increment if the amount is \$5.00 or more (e.g., if the combined income is \$446, use the award for \$450 combined income; if it is \$444, use the award for \$440).

As explained in Appendix IX-A, the basic child support amount represents average spending on children by intact families (see Appendix IX-A for consumption items included and excluded in the Appendix IX-F basic child support amount).

### **Line 8 - Adding Net Work-Related Child Care Costs to the Basic Obligation**

**Calculate** net work-related child-care costs using the Appendix IX-E Net Child Care Expense Worksheet. **Enter** the weekly net child-care cost (from Line 7 of Appendix IX-E Worksheet) on Line 8.

Since child care expenses are excluded from the Appendix IX-F child support schedules, such costs, if incurred by either parent, must be added to the basic support amount.

1. *Qualified Child Care Expenses.* Qualified child care expenses are those incurred to care for a dependent who is under the age of 15 or is physically or mentally handicapped. These expenses must be necessary for the employment or job search of the parent. Child care expenses should be reasonable and should not exceed the level required to provide quality care for the child(ren) from a licensed source. Only the net cost of child care (after the federal tax credit is deducted) is added to the basic award. It is assumed that the parent paying for child care will apply for and receive the federal child care tax credit at the end of the tax year.
2. *Determining the Net Child Care Cost*
  - a. Calculate the Adjusted Gross Income (AGI) of the parent paying for child care by deducting moving expenses, one-half of the self-employment tax, IRA and Keough contributions, penalties on early withdrawal of savings, self-employment health insurance cost, and alimony paid from that parent's gross income. If this information is not available, use the parent's gross income (Line 1 + Line 4).
  - b. Determine the annual child-care cost.
  - c. Complete the Net Child Care Expense Worksheet in Appendix IX-E to find the weekly net child-care cost to be added to the basic support amount.

### **Line 9 - Adding Health Insurance Costs for the Child to the Basic Obligation**

**Enter** the parent's weekly cost of health insurance for the child for whom support is being determined on Line 9. If the parent's weekly marginal cost is unknown at the time of the hearing, use the *per capita* cost of a family policy at the parent's place of work. Do *not* include health insurance costs for adults or other dependents.

Since the cost of health insurance for children is excluded from the Appendix IX-F child support schedules, a parent's contributions to a health insurance policy which includes the child for whom support is being determined must be added to the basic support amount. Only the parent's cost of adding the child to the health insurance (medical and dental) policy is added to the basic support amount (i.e., the marginal premium cost to the parent to add the child to the policy). If the parent who is providing the health insurance has no proof of the cost of adding the child to the health insurance policy, the parent's total premium cost should be divided by the number of persons covered by the policy (per capita). The result is then multiplied by the number of children for whom support is being determined to obtain the child's estimated share of the health insurance

cost. For example, if the parent's total health insurance cost is \$60 per week and there are four persons covered by the policy (the parent, the two children who are the subjects of the support order, and a new spouse), the per capita health insurance cost for the two children is \$30 ( $(\$60 \div 4 \text{ persons} = \$15) \times 2 \text{ children} = \$30$ ). If both parents provide health insurance for the child, each parent's marginal cost of adding the child to the policy should be added together to determine the total health insurance cost for the child. If the cost of the health insurance policy is unknown at the time of the support establishment hearing, the parent may apply for a modification of the support order when such information becomes available.

**Line 10 - Adding Predictable and Recurring Unreimbursed Health Care to the Basic Obligation**

**Enter** the weekly unreimbursed cost of any health care, if predictable and recurring, for the child that exceeds \$250 per child per year on Line 10.

*Costs under \$250 per child per year* - Unreimbursed health care expenses (medical and dental expenses not covered by insurance) up to and including \$250 per child per year are included in the Appendix IX-F child support schedules and are assumed to be paid by the custodial parent. Because they are part of the basic child support amount, these *ordinary* health care expenses are shared in proportion to the relative incomes of the parents.

*Predictable, Recurring Costs above \$250 per child per year* - Unreimbursed health care expenses in excess of \$250 per child per year are excluded from the child support schedules. If such expenses are predictable and recurring, they should be added to the basic support amount using Line 10. The court should consider the duration and recurring nature of unreimbursed health care expenses prior to adding them to the basic support amount. If both parents provide predictable, recurring unreimbursed health care for the child, the cost to each parent should be added together to determine the total unreimbursed health care costs. Each parent's direct health care expenses for the child above the \$250 per child annual threshold are credited against his or her share of the total support award on Line 17.

*Unpredictable, Non-Recurring Costs above \$250 per child per year* - Health-care expenses for a child that exceed \$250 per child per year that are not predictable and recurring should be shared between the parents in proportion to their relative incomes as incurred. Since these expenses are not included in the support award, the procedure for sharing such costs should be set forth in the general language of the order or judgment.

**Line 11 - Adding Court-Approved Predictable and Recurring Extraordinary Expenses to the Basic Support Amount**

**Enter** court-approved predictable and recurring costs for the child on Line 11.

If approved by the court, predictable and recurring extraordinary expenses for the child that are not included in the Appendix IX-F child support awards may be added to the basic support amount. Examples of extraordinary expenditures are PAR Time transportation expenses, special diets, and private education costs for gifted or handicapped children. See Appendix IX-A, paragraph 8, for a list of items that are included in the Appendix IX-F awards and an explanation of private education expenses that may be added to the basic support amount.

Extraordinary expenses for a child that are not predictable and recurring should be shared between the parents in proportion to their relative incomes as incurred. Since these expenses are not included in the support award, the procedure for sharing such costs should be set forth in the general language of the order or judgment.

Each parent's direct spending on court-approved extraordinary expenses for the child are credited against his or her share of the total support award on Line 18.

**Line 12 - Deducting Government Benefits Paid to or for the Child**

**Enter** government benefits received by the child on behalf of either parent on Line 12.

If a child is receiving government benefits based on either parent's earning record, disability, or retirement, the amount of those benefits must be deducted from the total support award (regardless of the effect of the child's benefit payments on benefits paid to the parent). Such benefits include, but are not limited to: Social Security Retirement or Disability, Black Lung, and Veteran's Administration benefits. Also included are non-means-tested government benefits meant to offset the cost of the child such as adoption subsidies (*N.J.A.C. 10:121-2*). SSI, public assistance (TANF), and other means-tested benefits are not government benefits based on a parent's earnings record, disability or retirement and should not be included on Line 12. If the government benefit received by the child is greater than the total support award (i.e., the amount of the total support award after deducting the government benefit is zero or less), the amount of the government benefit that is being paid to or for the child represents the support award. In such cases, the support award should be made payable directly to the obligee (i.e., from the government agency to the obligee; not through Probation). If the government benefit is less than the total support obligation, it shall continue to be paid directly to the obligee and the residual amount shall be paid through Probation. See Appendix IX-A, paragraph 10(b).

Note that these benefits are not included in the gross income of the recipient parent.

NOTE: There may be circumstances when the CP/PPR is the party who is disabled and the child's share of derivative government benefits such as Social Security Disability greatly reduces child support at a time when the CP/PPR's personal income is also reduced. This creates a situation where the government benefits have the overall affect of being treated as a contribution made entirely by the NCP/PAR which may result in an injustice to the child. Under these circumstances, deviation from the guidelines may be required to prevent a financial hardship in the child's primary household due to the

substantial reduction, or possible elimination, of child support caused by the application of the deduction allowed for government benefits against the basic child support amount.

**Line 13 - Calculating the Total Child Support Amount**

**Add** the basic child support amount, net child-care cost, health insurance cost for the child, predictable and recurring unreimbursed health-care costs above \$250 per child per year, and court-approved predictable and recurring extraordinary expenses. Then, **Subtract** any government benefits received by the child. The result is the Total Child Support Amount. [Math: ((Line 7 + Line 8 + Line 9 + Line 10 + Line 11) - Line 12)].  
**Enter** the total support amount on Line 13.

**IF THE TOTAL CHILD SUPPORT AMOUNT IS ZERO (THE GOVERNMENT BENEFIT EXCEEDS THE TOTAL CHILD SUPPORT AMOUNT), STOP! GOVERNMENT BENEFITS PAID DIRECTLY TO CHILD'S CUSTODIAN WILL SUBSTITUTE FOR THE CHILD SUPPORT ORDER. OTHERWISE, CONTINUE TO LINE 14.**

**Line 14 - Parental Share of the Total Child Support Obligation**

**Multiply** each parent's percentage share of income by the total child support amount to find each parent's share of the total child support amount. [Math: Line 6 Custodial Parent  $\times$  Line 13 Total Support; Line 6 Non-Custodial Parent  $\times$  Line 13 Total Support].  
**Enter** each parent's share of the total support amount in the appropriate Line 14 column.

**Line 15 - Credit for Child- Care Payments**

**Enter** payments (if any) for work-related child-care that are being paid by the non-custodial parent directly to the child care provider in the Line 15 NCP column.

**NOTE:** payments cannot exceed the net work-related child care cost on Line 8.

**Line 16 - Credit for Payment of Child's Health Insurance Cost**

**Enter** the non-custodial parent's direct payments (or payroll deductions) toward the marginal cost of adding the child to a health insurance policy in the Line 16 NCP column.

**NOTE:** payments cannot exceed the parent's cost of health insurance for the child added on Line 9.

**Line 17 - Credit for Payment of Child's Predictable and Recurring Unreimbursed Health Care**

**Enter** the non-custodial parent's direct payments (if any) for predictable and recurring unreimbursed health care above \$250 per child per year in the Line 17 NCP column.

**NOTE:** payments cannot exceed predictable and recurring unreimbursed health care expenses added on Line 10.

**Line 18 - Credit for Payment of Court-Approved Extraordinary Expenses**

**Enter** the non-custodial parent's direct payments (if any) for predictable and recurring extraordinary court-approved expenses in the Line 18 NCP column.

**NOTE:** payments cannot exceed predictable and recurring extraordinary court-approved expenses added on Line 11.

**Line 19 - Adjustment for Parenting Time Variable Expenses**

**Enter** the amount of the adjustment for variable expenses for the child during parenting time periods in the Line 19 NCP column. The court may grant the non-custodial parent an adjustment for parenting time equal to that parent's income share of the child's variable expenses for the percentage of time the child is with that parent. When determining if the adjustment is appropriate, the court should consider whether the non-custodial parent has incurred variable expenses for the child during the parenting time period and if parenting time reduced the other parent's variable expenses for the child. It is assumed that variable costs (food and transportation) for the child account for 37% of the total marginal child-rearing expenditures in intact families. The parenting time adjustment should not exceed the parent's time share of the variable costs for the child.

**To figure the maximum PAR Time variable-expense adjustment:**

- 1) Calculate the assumed variable costs for the child by multiplying the basic child support amount (Line 7) by 37%;
- 2) Calculate the non-custodial parent's percentage of overnights with the child by dividing the number of overnights with the non-custodial parent by the total overnights with either parent (enter each parent's percentage of time with the child or children on Line 5 of the Comments section of the worksheet);
- 3) Multiply the variable costs for the child by the non-custodial parent's percentage of overnights. The result is the maximum PAR Time adjustment (the variable cost for the time spent with the child).

**[Math: Line 7 × 0.37 × percentage of time with child]**

**NOTE: If the custodial parent's total household net income (from all sources) plus the PAR Time-adjusted support award is less than 200% of the poverty guideline for the number of persons in the household, the PAR Time adjustment is not presumptive and shall be subject to the court's discretion.**

**Line 20 - Figuring Each Parent's Net Support Obligation**

**Subtract** each parent's direct payments for child care, the child's share of the health insurance premium, predictable and recurring unreimbursed health care for the child above \$250 per year per child, and predictable and recurring extraordinary court-

approved expenses from the paying parent's share of the total support amount. Then, **subtract** the Line 19 credit, if any, from the non-custodial parent's support amount. The result is each parent's net child support obligation.

[Math: (Line 14 - (Line 15 + Line 16 + Line 17 + Line 18 + Line 19)) for each parent].

**Enter** each parent's net obligation in the appropriate Line 20 column.

Direct payments are subtracted from the total child support amount of the parent who made the expenditure to find that parent's net child support obligation. Direct payments may be deducted only if the cost was included in the total child support amount. The net child support obligation for the non-custodial parent is the support order that will be paid for the benefit of the children. The net obligation of the custodial parent is considered to be spent directly on the children during the course of providing for their daily needs. If the children reside with a third party, each parent's net obligation is his or her respective child support order to be paid to the third-party custodian of the child (i.e., two orders are paid to the child's custodian).

**IF NEITHER PARENT REQUESTED AN ADJUSTMENT FOR OTHER DEPENDENTS, GO TO LINE 24**

**Lines 21, 22, and 23 - Adjusting the Child Support Obligation for Other-Dependents**

1. If either parent requests an adjustment for other legal dependents, three Sole Parenting worksheets must be prepared (if calculating the adjustment manually). The worksheets will result in the following obligation amounts:
  - a. a theoretical support obligation for the child in the alternate family (i.e., the parent requesting the adjustment is the theoretical obligor of the child in the alternate family);
  - b. a support obligation for the child for whom support is being determined calculated after deducting the theoretical obligation for any other dependents from the responsible parent's gross income; and
  - c. a support obligation for the child for whom support is being determined calculated without deducting the theoretical obligation for other dependents from the responsible parent's gross income.
2. To ensure that a fair share of the parent's income is available to all his or her legal dependents, add the non-custodial parent's support obligation from the worksheet that includes the other-dependent deduction and the non-custodial parent's support obligation from the worksheet that does not include the other-dependent deduction. Divide the sum of the two obligations by two to obtain the adjusted child support obligation for the non-custodial parent.

**Line 21 - Line 20 CS Obligation With Other-Dependent Deduction**

**Enter** the amount of the non-custodial parent's net child support obligation (Line 20) from the worksheet that deducted the theoretical support obligation for the parent's

other dependents from the parent's net income (i.e., with the Line 2d other-dependent amount deducted from the parent's gross income). Note: the Line 2d theoretical support obligation for children in the alternate family is calculated on a separate Sole-Parenting worksheet.

#### **Line 22 - Line 20 CS Obligation Without Other-Dependent Deduction**

**Enter** the amount of the non-custodial parent's child support obligation (Line 20) from the worksheet that did not deduct the theoretical support obligation for other dependents (Line 2d) from the parent's net income was calculated. Note: the theoretical support obligation for children in the secondary family is calculated on a separate worksheet.

#### **Line 23 - Obligation Adjusted for Other Dependents**

**Add** the Line 21 support obligation that includes the other-dependent deduction and the Line 22 support obligation that does not include the other dependent deduction, then **divide** the sum by two to obtain the Adjusted Child Support Obligation for the non-custodial parent. [Math:  $((\text{Line 21}) + (\text{Line 22}) \div 2)$ ]. **Enter** the result on Line 23.

#### **Lines 24, 25, and 26 - Maintaining a Self-Support Reserve**

To ensure that the obligor parent retains sufficient net income to live at a minimum subsistence level and has the incentive to work, that parent's net child support award is tested against 105% of the U.S. poverty guideline for one person. If the NCPs net income after deducting the child support award is less than the self-support reserve, the order should be adjusted. **No such adjustment shall occur, however, if the custodial parent's net income is less than the self-support reserve.** This priority is necessary to ensure that custodial parents can meet their basic needs while caring for the child(ren). The poverty guideline will be disseminated by the AOC each February or when it is published in the Federal Register. The self-support reserve test is applied as follows:

1. Subtract the obligor's child support obligation from that person's net income.
2. If the difference is greater than 105% of the poverty guideline for one person (\$219 per week as of January 23, 2009), the self-support reserve is preserved and the obligor's support obligation is the child support order.
3. If the difference is less than 105% of the poverty guideline for one person **and** the custodial parent's net income is greater than 105% of the poverty guideline, the obligor's child support order is the difference between the obligor's net income and the 105% of the poverty guideline for one person.

In determining whether the application of the self-support reserve is appropriate, the court may need to impute income to a parent as provided in Appendix IX-A. The court should also consider a parent's actual living expenses and the custodial parent's share of the support obligation (see Appendix IX-A, paragraph 20).

**Line 24 - Self-Support Reserve Test**

**Calculate** whether the obligor's income will exceed 105% of the poverty level by subtracting the non-custodial parent's net child support obligation from that person's net income. (Math: Line 5 Non-Custodial Net Income - Line 20 or Line 23 Non-Custodial Child Support Obligation.) **Enter** the result for the NCP on Line 24. **Enter** the custodial parent's net income minus the custodial parent's child support obligation (Line 5 minus Line 14) on Line 24. **Then,**

***If the NCP Line 24 amount is less than 105% of the poverty guideline and the CP Line 24 minus the CP Line 14 is greater than 105% of the poverty guideline, Go To*** Line 25. ***If the NCP result is greater than 105% of the poverty guideline, Skip*** Line 25 and **Enter** the Line 20 or Line 23 non-custodial parent child support obligation on Line 26.

**NOTE: If the CP Line 24 minus the CP Line 14 amount is less than 105% of the poverty guideline, there is no NCP self-support reserve adjustment. In this case, the NCP Line 20 or Line 23 amount is the final child support order (Line 26).**

**Line 25 - Maximum Child Support Order**

**Subtract** the poverty level from the non-custodial parent's net income to find the maximum child support order. [Math: Line 5 Non-Custodial Net Income - 105% of the poverty guideline]. **Enter** the result on Lines 25 and 26.

**Line 26 - Child Support Order**

Line 26 is the amount to be paid by the non-custodial parent (the obligor) to the custodial parent (from either Line 24 or Line 25) for the benefit of the children.

**LINE INSTRUCTIONS FOR THE SHARED-PARENTING WORKSHEET**

**Caption**

**Enter** the names of the parties, the county of venue, the docket number, and the number of children for whom support is being determined. Check-off whether the Parent of the Primary Residence is the plaintiff or defendant.

**Lines 1 through 5 - Determining Income**

**Gross Income** - For the purpose of these guidelines, *gross income* is all earned and unearned income that is recurring or will increase the income available to the recipient over an extended period of time. When determining whether an income source should be included in the child support guidelines calculation, the court should consider if it would have been available to pay expenses related to the child if the family would have remained intact or would have formed and how long that source would have been available to pay those expenses.

**Sources of Income** - *Gross income*, includes, but is not limited to, income from the following sources:

- a. compensation for services, including wages, fees, tips, and commissions;
- b. the operation of a business minus ordinary and necessary operating expenses (see IRS Schedule C);
- c. gains derived from dealings in property;
- d. interest and dividends (see IRS Schedule B);
- e. rents (minus ordinary and necessary expenses - see IRS Schedule E);
- f. bonuses and royalties;
- g. alimony and separate maintenance payments received from the current or past relationships;
- h. annuities or an interest in a trust;
- i. life insurance and endowment contracts;
- j. distributions from government and private retirement plans including Social Security, Veteran's Administration, Railroad Retirement, deferred compensation, Keoughs and IRA's;
- k. personal injury awards or other civil lawsuits;
- l. interest in a decedent's estate or a trust;
- m. disability grants or payments (including Social Security disability);
- n. profit sharing plans;
- o. worker's compensation;
- p. unemployment compensation benefits;
- q. overtime, part-time and severance pay;
- r. net gambling winnings;
- s. the sale of investments (net capital gain) or earnings from investments;
- t. income tax credits or rebates (excluding the federal and state Earned Income Credit and the N.J. homestead rebate);

- u. unreported cash payments (if identifiable);
- v. the value of in-kind benefits; and
- w. imputed income (see Appendix IX-A, paragraph 12).

***Income from self-employment or operation of a business.***

- a. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Personal income from the operation of a business includes all income sources listed above and *potential cash flow* resulting from loans taken from the business.
- b. In general, income and expenses from self-employment or the operation of a business should be carefully reviewed to determine an appropriate level of gross income that is available to the parent to pay a child support obligation. In most cases, this amount will differ from the determination of business income for tax purposes.
- c. Specifically excluded from ordinary and necessary expenses, for the purposes of these guidelines, are expenses allowed by the IRS for:
  - 1) the accelerated component of depreciation expenses;
  - 2) first-year bonus depreciation;
  - 3) depreciation on appreciating real estate;
  - 4) investment tax credits;
  - 5) home offices;
  - 6) entertainment;
  - 7) travel in excess of the government rate;
  - 8) non-automobile travel that exceeds standard rates;
  - 9) automobile expenses;
  - 10) voluntary contributions to pension plans in excess of 7% of gross income;
  - and
  - 11) any other business expenses that the court finds to be inappropriate for determining gross income for child support purposes.

***Sporadic Income***

- a. If income from any source is sporadic or fluctuates from year to year (e.g., seasonal work, dividends, bonuses, royalties, commissions), the amount of sporadic income to be included as *gross income* shall be determined by averaging the amount of income over the previous 36 months or from the first occurrence of its receipt whichever time is less.
- b. For overtime pay or income from a second job, the average is based on the prior 12 months or first receipt whichever time is greater.
- c. The court may exclude sporadic income if the party can prove that it will not be available in an equivalent amount in the future.

***Military Pay*** - All military pay and allowances shall be included as gross income for determining child support (see *Rose vs. Rose*, 107 S. Ct. 2029 (1987)).

a. All service members receive Basic Allowance for Quarters (BAQ) and Basic Allowance for Subsistence (BAS) or live in government accommodations and eat at mess halls for free. If BAQ and BAS are not received due to government-provided accommodations and food, the value of such in-kind income may be included in the service member's gross income.

b. BAQ, BAS, and Variable Housing Allowances (VHS) are considered income when determining child support. These forms of income are not subject to tax.

***In-Kind Income*** - The fair-market value of goods, services or benefits received in lieu of wages and in the course of employment shall be included as gross income if they reduce personal living expenses of the recipient regardless of whether they are derived from an employer, self-employment, or the operation of a business. Examples of in-kind goods, services, and benefits include vehicles, automobile insurance, free housing, meals, benefits selected under a cafeteria plan, memberships, or vacations. Expense reimbursements are not considered income.

***Alimony, Spousal Support, and/or Separate Maintenance Received*** - Alimony, spousal support, or separate maintenance payments received from a spouse or former spouse in accordance with a court order are considered gross income to the recipient. If child support and alimony, spousal support, or separate maintenance are being determined **simultaneously** (for the same family), the court should set the alimony, spousal support, or separate maintenance first and include that amount in the recipient's gross income (on Line 1c) before applying the child support guidelines, except in *pendente lite* situations. Alimony, spousal support, or maintenance payments being or to be paid to former spouses in the future (to the current spouse) are excluded from the payor's income (on Line 1b).

***Types of Income Excluded from Gross Income*** - The following types of income are excluded from *gross income*:

- a. means-tested income (i.e., based on the fact that the recipient has minimal income and requires government assistance to live) including, but not limited to, Temporary Assistance to Needy Families (TANF), Deficit Reduction Act (DEFRA), General Assistance, Refugee Assistance, rent subsidies, food stamps, and Supplemental Security Income for the Aged, Blind or Disabled;
- b. alimony, spousal support, or separate maintenance payments (the net amount after deducting the tax benefits, if known) to a current or former spouse;
- c. child support received for children of another relationship;
- d. non-income producing assets (e.g., undeveloped real estate, automobiles, jewelry, art, stocks and bonds) **unless** the court finds that the intent of the investment was to avoid the payment of child support;

- e. income from children, unless the court determines that such income should be included because the child is a professional or has substantial income that reduces the family's living expenses;
- f. income from other household members (e.g., step-parents, grandparents, current spouse) who are not legally responsible for the support of the child for whom support is being established except to determine the other-dependent credit (the income of the current spouse may be included if an other-dependent deduction is requested - see Appendix IXA, paragraph 10).
- g. a government benefit based on a parent's earnings record, disability, or condition that is paid to or for the child (or the child's caretaker) for whom support is being determined (e.g., Black Lung, Veteran's Disability, Social Security) or other non-means-tested government benefits meant to reduce the cost of the child (e.g., adoption subsidies as provided by N.J.A.C. 10:121-2);
- h. for modifications involving retirement income, the pro-rated amount of contributions to a voluntary plan that were previously included in gross income when the current support order was established; and
- i. financial assistance for education including loans, grants, scholarships, veteran's education benefits, and awards provided under the National and Community Service Act of 1990 (except post-service benefits).

***Collecting and Verifying Income Information***

- a. Prior to a hearing to establish or modify child support, the parties shall submit either a Case Information Statement (*R. 5:5-2*) or a Financial Statement in Summary Support Actions (*R. 5:5-3*) to the court.
- b. When possible, the court should determine gross income as follows:
  - (1) Prior to June 30 of the current year, use Federal and State income tax returns, W-2 statement(s) and IRS 1099's from the preceding year. If tax documentation is unavailable, use any other available evidence of current earnings (e.g., paystubs, employer wage verifications, or, for the self-employed, statements of business receipts and expenses). If a joint income tax return includes income of a person other than one of the parties involved in the support proceeding (e.g., the current spouse), the taxpayer or that person's attorney shall be responsible for the redaction of the tax return.
  - (2) After June 30, use the year-to-date income figure from all documented sources listed above. Divide the total gross income from all sources by the number of employed weeks to determine the weekly gross income.

- (3) If no income documentation is available, income may be determined through testimony or imputed as set forth in Appendix IX-A, para. 10.

*Note on Income Documentation:* The review of a paystub, W-2 form, IRS-1099 form or tax return may not provide all necessary income information for a parent. The accurate determination of income may be dependent on a combination of these documents and testimony. Also, note that a parent may have more than one W-2 wage statement if that person worked for multiple employers during the year.

**Taxable and Non-Taxable Income** - Before determining Net Income, gross income must be separated into taxable and non-taxable portions to ensure that withholding taxes are deducted only from taxable gross income. Generally, the types of income listed below are not subject to tax. Other types of income may be non-taxable depending on the status of the taxpayer or the source of income. For more information on taxable and non-taxable income, refer to IRS Publication 525 (Taxable and Non-Taxable Income) or, for New Jersey income taxes, see N.J.S.A. 54A:6-1 or NJ-WT. The following items are considered income to parents, but should not be used to calculate withholding or income taxes when determining net income.

*1. Income Not Subject to Federal Income Tax*

- a. Accident and health insurance proceeds;
- b. Black-lung benefits;
- c. Child support payments;
- d. Federal Employees Compensation Act payments;
- e. Interest on state or local obligation;
- f. Scholarships and fellowships grants;
- g. Veteran's benefits;
- h. Worker's compensation;
- i. Life insurance proceeds paid due to death of the insured;
- j. Social Security benefits. However, if the taxpayer has income of more than \$25,000 if single or \$32,000 if married and filing a joint return some of the benefits may be taxable (see IRS Publication 915);
- k. Casualty insurance and other reimbursements; and
- l. Earnings from tax-free government bonds or securities.

*2. Income Not Subject to New Jersey State Income Tax*

- a. Federal Social Security benefits;
- b. Railroad Retirement benefits;
- c. Proceeds of life insurance contracts payable by reason of death;
- d. Employee's death benefits;
- e. The value of property acquired by gift, bequest, devise or inheritance except income from any such property or if the gift, bequest, devise or inheritance is income;

- f. Amounts received under worker's compensation including income from suits, agreements, accident or health insurance resulting from personal injuries or sickness;
- g. Compensation paid by the United States for services in the Armed Forces performed by an individual not domiciled in New Jersey;
- h. Grants or scholarships received from education institutions;
- i. Payments of up to \$10,000 for a married couple filing jointly, \$5,000 for a married couple filing separately and \$7,500 for a single taxpayer from an annuity, endowment or life insurance contract or payments of any such amount received as pension, disability or retirement benefits for persons at least 62 years old or disabled under Social Security;
- j. New Jersey Lottery winnings;
- k. Permanent and total disability benefits under a public or private plan and certain accident and health insurance benefits including Veteran's benefits;
- m. Unemployment Insurance benefits;
- n. Interest on obligations issued by the State or any county, municipality, school or other governmental body of New Jersey and obligations statutorily free from tax under State or federal law;
- o. Amounts contributed by an employer on behalf of an employee to a trust which meets the requirements of IRC section 401(K) are not taxable in the year when made; and
- p. Earnings from tax-free government bonds or securities.

*Note on Social Security Taxes:* Social Security tax withholding (FICA) for high-income persons may vary during the year. In the early part of the year, 6.2% is withheld on the first \$106,800 of gross earnings (for wage earners in 2009). After the maximum \$6,622 is withheld, no additional FICA taxes are withheld. Thus, pay stubs issued early in the year may understate net income, while those issued later in the year may overstate it. To estimate weekly FICA taxes, amortize the annual FICA tax using the number of weeks employed or use the Appendix IX-H combined tax tables. Note that self-employed persons must pay the full FICA tax (12.4%) up to the \$106,800 limit and the full Medicare tax rate (2.9%) on all earned income.

**Analyzing Income Tax Returns** - For assistance in analyzing income tax returns to determine parental income, see American Bar Association, Section of Family Law, *The 1040 Handbook: A Guide to Income and Asset Discovery*, 2d., 1993.

<b>Line 1 - Gross Taxable Income</b>
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**Enter** the weekly gross **taxable** income of each parent in the appropriate Line 1 column.

Non-taxable income is entered on Line 4.

**Line 1a - Mandatory Retirement Contributions**

**Enter** weekly mandatory retirement contributions for each parent in the appropriate Line 1a column.

Contributions to retirement or pension plans that are mandatory (i.e., required as a condition of employment) are not considered income for determining child support obligations. Since mandatory pension contributions are generally non-taxable, the amount of such payments must be deducted from gross income before withholding taxes and the Adjusted Gross Taxable Income are calculated. Voluntary payments to Deferred Compensation Plans (e.g., 401K, 414B), Keoughs, and IRA's should not be deducted from gross income. Calculate the weekly amount of mandatory retirement contributions by dividing the year-to-date contributions by the number of weeks employed or by using an average of the prior year's contributions.

**Line 1b - Alimony Paid**

**Enter** the weekly amount of alimony or other form of spousal support that is paid or will be paid to a former spouse in the appropriate Line 1b column.

When established simultaneously with child support (for the same family), the amount of alimony, spousal support, or separate maintenance should be determined before the child support guidelines are applied, except in *pendente lite* situations. Once the amount of alimony, spousal support, or separate maintenance is set, it is deducted from the payor's gross income and added to the recipient parent's gross income for the purposes of calculating a child support award using the guidelines.

**Line 1c - Alimony Received**

**Enter** the weekly amount of alimony or other form of spousal support that is received or will be received from a former spouse (i.e., includes payments from the current as well as any past relationships) in the appropriate Line 1c column.

To determine whether a payment from a former spouse is considered alimony or separate maintenance, see 26 U.S.C. 71.

**Line 2 - Adjusted Gross Taxable Income**

**Subtract** mandatory retirement contributions and alimony paid from the gross taxable income and **Add** any alimony received to the gross taxable income to obtain the adjusted gross taxable income. **Enter** each parent's adjusted gross taxable income in the appropriate Line 2 column. [Math: Line 1 - Line 1a - Line 1b + Line 1c]

**Line 2a - Withholding Taxes**

**Enter** each parent's combined weekly federal, state, and local withholding taxes in the appropriate Line 2a column. Once the taxable portion of gross income is determined, the combined federal, state, city (if applicable), Social Security, and Medicare withholding taxes are deducted. As set forth below, four methods are available to

determine the amount of combined income tax withholding to be deducted from gross income.

1. Combined Income Tax Withholding Tables (Appendix IX-H) - To use the combined tax withholding tables, the gross taxable income and the number of withholding allowances claimed must be known.

- a. Income tax withholding is meant to be consistent with end-of-year tax obligations to avoid the need for payments or refunds. Generally, individuals may claim from zero to two withholding allowances for themselves, one for a spouse, and one for each dependent. Starting in the 1998 tax year, additional allowances may be claimed to accommodate the new child tax credit (see paragraph b). The number of withholding exemptions claimed may vary with the taxpayer's marital status, number of jobs held, estimated adjustments to income, and the employment status of the taxpayer's spouse (see Section 3402 of the Internal Revenue Code, IRS Form W-4, or IRS Pub. 505).
- b. Individuals must justify claiming fewer withholding exemptions than allowed since this may result in less available gross income per payroll period and may provide the taxpayer with a substantial refund at the end of the year that will not be considered when determining the child support award. Unless a party can show good cause for claiming fewer withholding allowances than permitted, the following standards shall be used to determine withholding taxes from the Appendix IX-H Combined Tax Withholding Tables:
  - (1) one withholding allowance for the parent;
  - (2) one withholding allowance for a current spouse;
  - (3) one withholding allowance for each dependent child; and
    - (a) for incomes less than \$61,000 if unmarried or less than \$90,000 if married, two allowances for each eligible child, subtracting one withholding allowance if there are three or more eligible children; or
    - (b) for incomes between \$61,000 and \$84,000 if unmarried or between \$90,000 and \$119,000 if married, one allowance for each eligible child plus one additional allowance if there are six or more eligible children.

(To determine eligibility, see IRS Form W-4 and 26 U.S.C.A. § 24).

**NOTE:** The combined tax withholding table may not result in the correct tax withholding amount if significant portions of the parent's income are not subject to FICA/Medicare tax (e.g., alimony, rents, dealings in property, interest), if wages for federal income tax and the FICA/Medicare tax differ, or if the parent is self-employed (requires payment of the full FICA/Medicare tax rate on 92.35% of income - see IRS Pub. 533 or Schedule SE). Generally, unearned income is not subject to the FICA/Medicare tax. See the notes at the end of the Appendix IX-H combined tax withholding table.

2. End-of-Year Tax Obligations - If the award is being calculated before June 30 of the current year and the prior year's federal and state income tax return forms, and Forms W-2 are available, the tax obligation may be calculated as follows:

- a. add the end-of-year income tax obligation (i.e., total tax) from the federal and state tax return forms, the W-2 Social Security tax withheld, and the W-2 Medicare tax withheld.
- b. divide the sum of the taxes by 52.

3. Year-to-Date Calculation - If the award is being calculated after June 30 of the current year and a check stub is available (which represents the parent's only income source), add the year-to-date federal, state, Social Security and Medicare withholding taxes and divide the sum by the number of weeks employed.

4. Self-Employed Persons - For persons whose income is derived from self-employment or the operation of a business, the court should carefully review personal and business income tax returns (State and federal) and IRS 1099 statements from the most recent tax year to determine the amount of taxes to be deducted from gross income.

**Note:** the method of determining withholding taxes and each parent's number of allowances and marital status must be documented in the Comments section (Line 5) of the worksheet.

#### **Line 2b - Prior Child Support Orders**

**Enter** the weekly amount of previously ordered child support in the appropriate Line 2b column.

Since previously ordered child support of **other relationships** represents income that is not available for determining the current child support obligation, the amount of such orders must be deducted from the obligor's weekly Adjusted Gross Taxable Income (in anticipation of the payment of the order). In cases where the obligor must pay support to multiple families, considering these amounts in the guidelines worksheet may result in the obligor's net income falling below the self-support reserve, seriously affecting the support order for the most recent support case. In these instances, it may be necessary for the court to deviate from the guidelines.

#### **Line 2c - Mandatory Union Dues**

**Enter** each parent's weekly mandatory union dues in the appropriate Line 2c column.

Union dues must be mandatory (i.e., required as a condition of employment) to be eligible as a deduction from a parent's Adjusted Gross Taxable Income. Calculate the weekly amount of mandatory union dues by dividing the year-to-date dues paid by the number of employed weeks or by using an average of the prior year's dues payments.

**Line 2d - Other-Dependent Deduction**

**Enter** the theoretical weekly child support obligation for other legal dependents (from Line 14 of the Sole-Parenting worksheet prepared for the alternate family) on Line 2d of the worksheet of the parent requesting the adjustment. The Line 14 amount represents the parent's income share of the total marginal costs for the children in the alternate family. The obligation amount for other legal dependents (the other-dependent deduction) should be calculated on a separate Sole-Parenting Worksheet.

The other-dependent deduction is part of an adjustment mechanism to apportion a parent's income to all legal dependents including those born before or after the children for whom support is being determined. Legal dependents include adopted or natural children of either parent who are under 18 years of age or over 18 years of age **and** still attending high school or other secondary school. No adjustment is provided for stepchildren. Generally, stepchildren are considered the legal responsibility of their natural parents unless the court determines that a stepparent has a legal obligation to support the child.

The adjustment requires that three support obligations be calculated - a theoretical support obligation for the other dependents in the alternate family, a support obligation that includes the other-dependent deduction, and a support obligation that does not include the other-dependent deduction. The deduction and the adjusted support obligation are calculated only if requested by a serial family parent and the income of the other parent in the alternate family is provided to the court.

1. The amount of the deduction is the serial parent's theoretical support obligation for the other legal dependents. It requires that a separate Sole-Parenting child support guidelines worksheet be completed (through Line 14) for the children in the alternate family with the serial parent being the theoretical obligor of those children. The deduction is calculated based on the income of the parent claiming the deduction and the income of that person's current spouse.
2. A parent must disclose the gross income of the other parent in the alternate family as a condition to the right to claim this deduction. If the other parent in the secondary family is voluntarily unemployed or under-employed, the court may impute income to that person to determine the parent's obligation to the children in the secondary family.
3. The amount of the deduction shall not be calculated for alternate families having more than six children. In such cases, the court may find that the guidelines are inapplicable and may establish the child support award based on the factors set forth in *N.J.S.A. 2A:34-23* and existing case law.

**Line 3 - Net Taxable Income**

**Subtract** the combined withholding tax, prior child support orders, mandatory union dues, and the other-dependent deduction\*, if any, from the Adjusted Gross Taxable Income to obtain the Net Taxable Income. [Math: Line 2 - Line 2a - Line 2b - Line 2c - Line 2d]. **Enter** each parent's Net Taxable Income in the appropriate Line 3 column.

*\*If the other-dependent adjustment is requested*, three worksheets must be prepared: (1) one calculating the parent's theoretical obligation to dependents in the secondary family, (2) one calculating a support award after deducting the theoretical obligation from the parent's net income, and (3) one calculating the support award as if there were no other dependents (i.e., the theoretical obligation without the other dependent deduction). Thus, the other-dependent deduction is not always *deducted* when figuring net income. The support award is adjusted for other dependents using Lines 29 through 31.

**Line 4 - Non-Taxable Income**

**Enter** each parent's weekly gross non-taxable income in the appropriate Line 4 column.

Enter the source or type of non-taxable income in the space provided on Line 4 or in the Comments section of the Worksheet.

**Line 5 - Net Income**

**Add** the Net Taxable Income and the Non-Taxable Income to obtain the weekly Net Income. [Math: Line 3 + Line 4]. **Enter** each parent's Net Income in the appropriate Line 5 column.

**Add** the net incomes of the parents to obtain the Combined Net Income [Math: Line 5 Custodial Parent + Line 5 Non-Custodial Parent = Line 5 Combined]. **Enter** the result on Line 5, Combined.

**Line 6 - Percentage Share of Income**

**Divide** each parent's net income by the combined net income to obtain each parent's percentage share of income. [Math: Line 5 Custodial Parent ÷ Line 5 Combined = Custodial Parent Line 6 Percentage Share; Line 5 Non-Custodial Parent ÷ Line 5 Combined = Non-Custodial Parent Line 6 Percentage Share]. The sum of the two percentages (ratios) must equal one (the decimal equivalent of 100%). **Enter** each parent's income share in the appropriate Line 6 column.

**Line 7 - Number of Overnights with Each Parent**

**Enter** the number of regular overnights that the child spends or is expected to spend with each parent during a one-year period in the appropriate Line 7 columns. Vacations and holidays with the PAR do not count towards the determination of overnight time.

**Add** the number of overnights with each parent to obtain the total number of overnights. **Enter** the total overnights in the Line 7 Combined column.

Generally, the sum of the number of overnights with each parent will be 365. If, however, the child spends overnights with a third party (e.g., grandparents) **on a predictable and recurring basis**, each parent's and the total number of overnights should be adjusted accordingly so that neither parent receives credit for this time. For example, if a child stays with grandparents for 10 overnights each year, which would have normally been spent with the PPR, the PPR's number of overnights is reduced by 10 and the total number of overnights is reduced to 355 (365-10). If the child would have spent half of the grandparent visitation time (5 of the 10 overnights) with the PAR, both parent's number of overnights is reduced by five. If a child attends summer camp or other overnight care, the parent paying for such care shall be entitled to the credit for the number of overnights.

#### **Line 8 - Percentage of Overnights with Each Parent**

**Divide** the number of overnights that the child spends with each parent by the total number of overnights. [Math: Line 7 PPR overnights ÷ Line 7 total overnights; Line 7 PAR overnights ÷ Line 7 total overnights]. **Enter** each parent's percentage of overnights in the appropriate Line 8 column. The sum of the percentages (ratios) must equal one (the decimal equivalent of 100%).

**NOTE: if the PAR's percentage of overnights with the child is less than the substantial equivalent of two or more overnights per week (28%), STOP! The sole parenting worksheet must be used.**

#### **Line 9 - Basic Child Support Amount**

**Look-up** the Basic Child Support Amount from the Appendix IX-F award schedule. Select the appropriate amount for the number of children for whom support is being determined and the Line 5 combined net income of the parents. **Enter** the Basic Child Support Amount on Line 9.

The parents' combined net income and the number of children for whom support is being determined are used to obtain the basic child support amount from the Appendix IX-F schedules. Appendix IX-F combined net incomes are provided in \$10.00 increments. For incomes that fall between income increments, go to the next higher income increment if the amount is \$5.00 or more (e.g., if the combined income is \$446, use the award for \$450 combined income; if it is \$444, use the award for \$440).

As explained in Appendix IX-A, the basic support amount represents average spending on children by intact families (see Appendix IX-A for items included and excluded in the basic support amount).

### **Line 10 - PAR Shared Parenting Fixed Expenses**

In shared-parenting situations, each parent incurs fixed costs (housing expenses) for the child even though the child may not be residing with a particular parent at a given time. Fixed costs include expenses for the dwelling, utilities, household furnishings, and household care items (see Appendix IX-A for a full list of items included in this category). It is assumed that fixed costs represent 38% of the basic support amount.

**The PPR's fixed costs** remain static (i.e., the full 38% of the basic support amount; they are not reduced when the child is not in the household) since that parent must maintain the primary residence for the child at all times. The PPR's fixed costs are included in the basic support amount. **The PAR's fixed expenses** are pro-rated based on the amount of time the child spends in the alternate household. The PAR's fixed expenses are assumed to be equal to  $[2 \times \text{PAR's time with the child} \times \text{PPR's fixed expenses}]$ . For example, if the PAR spends 30% of overnights with the child, that parent is assumed to incur 60% of the PPR's fixed costs. The parents have equal fixed expenses only when time sharing is equal (50% each). The PAR's time-adjusted fixed expenses must be added to the basic support amount (i.e., the basic amount assumes that there is only one household for the child) to determine the total dual-household costs for the child.

#### **To calculate the PAR's time-adjusted fixed expenses:**

(1) **Multiply** the basic support amount by 38% [Math:  $\text{Line 9} \times 0.38$ ]. The result is the portion of the basic support amount that represents the PPR's fixed expenses.

(2) **Multiply** the PPR's fixed expense by two times the PAR's percentage of overnights [Math:  $\text{PPR fixed expense} \times \text{PAR Line 8} \times 2$ ]. The result is the PAR's time-adjusted fixed expense for the child.

**Enter** this amount on Line 10.

### **Line 11 - Deducting Government Benefits Paid to or for the Child**

**Enter** the weekly amount of government benefits received by the child on behalf of either parent on Line 11. If a child is receiving government benefits (non-means tested) based on either parent's earning record, disability, or retirement, the amount of those benefits must be deducted from the total support award (regardless of the effect of the child's benefit payments on benefits paid to the parent). Such benefits include, but are not limited to: Social Security Retirement or Disability, Black Lung, and Veteran's Administration benefits. Also included are non-means-tested government benefits meant to offset the cost of the child such as adoption subsidies (*N.J.A.C. 10:121-2*). SSI, public assistance (TANF), and other means-tested benefits are **not** government benefits based on a parent's earnings record, disability or retirement and should not be included on Line 12. If the government benefit received by the child is greater than the total support award (i.e., the amount of the total support award after deducting the government benefit is zero or less), the amount of the government benefit that is being paid to or for the child represents the support award. In such cases, the support award should be made payable directly to the obligee (i.e., from the government agency to the obligee; not through Probation). If the government benefit is less than the total support

obligation, it shall continue to be paid directly to the obligee and the residual amount shall be paid through Probation. Note that these benefits are not included in the gross income of the recipient parent. See Appendix IX-A, paragraph 10(b) for more information on the treatment of government benefits.

NOTE: There may be circumstances when the CP/PPR is the party who is disabled and the child's share of derivative government benefits such as Social Security Disability greatly reduces child support at a time when the CP/PPR's personal income is also reduced. This creates a situation where the government benefits have the overall affect of being treated as a contribution made entirely by the NCP/PAR which may result in an injustice to the child. Under these circumstances, deviation from the guidelines may be required to prevent a financial hardship in the child's primary household due to the substantial reduction, or possible elimination, of child support caused by the application of the deduction allowed for government benefits against the basic child support amount.

#### **Line 12 - Shared Parenting Basic Child Support Amount**

**Add** the basic child support amount and the PAR's shared parenting fixed expenses, then, **Subtract** any government benefits paid to or for the child. The result is the shared parenting basic child support amount. [Math: ((Line 9 + Line 10) - Line 11)]. **Enter** the shared parenting basic child support amount on Line 12.

The shared parenting basic child support amount includes the costs of the two households in which the child resides, total variable costs (food and transportation) for the child, and other child-rearing costs controlled by the PPR such as clothing, personal care, and entertainment (see Appendix IX-A, paragraph 14(d)). Government benefits (non-means tested) paid to or for the child are deducted in recognition of the reduced household expenses for the child due to the receipt of government benefits specifically for that child.

If the shared parenting basic child support amount is zero or less due the deduction of a government apportionment, continue with the worksheet calculations (carrying forward negative numbers) to determine if the PAR has any obligation for supplemental expenses.

#### **Line 13 - PAR Share of Shared Parenting Basic Child Support Amount**

**Calculate** the PAR's share of the shared custody basic child support amount by multiplying the shared custody basic child support amount by the PAR's income share. [Math: (PAR Line 6 × Line 12)]. **Enter** the PAR's share of the award on Line 13.

#### **Line 14 - PAR Shared Parenting Variable Expenses**

*Variable expenses* are incurred only when the child is residing with a parent (i.e., costs that follow the child). This category includes transportation and food). It is assumed that variable costs account for 37% of total spending on a child in an intact family.

Since the PPR has no variable expenses for the child while the child is with the PAR, the shared custody basic child support amount (which assumes that all variable expenses are incurred by the PAR household), must be reduced by the PAR's variable expenses for the child while the child is residing in the PAR's household.

**To Calculate the PAR's share of variable expenses for the child:**

(1) **Multiply** the basic support amount by 37% [Math: Line 9  $\times$  0.37]. This is the portion of the basic support amount that represents variable expenses for the child.

(2) **Multiply** the variable expenses by the PAR's percentage of regular overnights with the child. [Math: (variable expense  $\times$  PAR Line 8)]. The result is the PAR's variable expense for the child. **Enter** this amount on Line 14.

Note: Be careful to calculate variable expenses using the basic child support obligation (Line 9), **not** the shared parenting basic child support amount (Line 13).

**Line 15 - PAR Adjusted Shared Parenting Basic Child Support Amount**

The PAR Adjusted Shared Parenting Basic Child Support Amount represents the PAR's income share of the net support obligation for the child while the child is residing in the primary household. To calculate this amount, **subtract** the PAR's fixed expenses and the PAR's variable expenses from the PAR's share of the Shared Parenting Basic Child Support Amount. [Math: (Line 13 - Line 10 - Line 14)]. Note: Line 15 may be a negative number. If so, carry it forward to the supplemental expense calculation.

**Lines 16 through 20 - Figuring Supplemental Expenses to be Added to the Shared Parenting Basic Child Support Amount**

Figure the amount of supplemental expenses (i.e., those not included in the basic support amount) that must be added to the PAR's basic child support amount.

Supplemental expenses include the net work-related child care cost, the cost of health insurance for a child, unreimbursed predictable and recurring health care expenses above \$250 per child per year, and other court-approved predictable and recurring expenses. See Appendix IX-A for a list of child-related expenses that are included in the Appendix IX-F awards. When added to the basic child support amount, supplemental expenses are apportioned between the parents in proportion their relative incomes (i.e., these expenses are not time shared).

**Line 16 - Adding Net Work-Related Child Care Costs**

**Calculate** net work-related child-care costs using the Appendix IX-E Net Child Care Expense Worksheet. **Enter** the weekly net child-care cost (from Line 7 of the Appendix IX-E Worksheet) on Line 16. Since child care expenses are excluded from the child support schedules, such costs, if incurred by either parent, must be added to the basic support amount.

1. *Qualified Child Care Expenses.* Qualified child care expenses are those incurred to care for a dependent who is under the age of 15 or is physically or

mentally handicapped. These expenses must be necessary for the employment or job search of the parent. Child care expenses should be reasonable and should not exceed the level required to provide quality care for the child(ren) from a licensed source. Only the net cost of child care (after the federal tax credit is deducted) is added to the basic award. It is assumed that the parent paying for child care will apply for and receive the federal child care tax credit at the end of the tax year.

*2. Determining the Net Child Care Cost*

- a. Calculate the Adjusted Gross Income (AGI) of the parent paying for child care by deducting moving expenses, one-half of the self-employment tax, IRA and Keough contributions, penalties on early withdrawal of savings, self-employment health insurance cost, and alimony paid from that parent's gross income. If this information is not available, use the parent's gross income (Line 1 + Line 4).
- b. Determine the annual child-care cost.
- c. Complete the Net Child Care Expense Worksheet in Appendix IX-E to find the net weekly child-care cost to be added to the basic amount.

**Line 17 - Adding Health Insurance Costs for the Child**

**Enter** the parent's weekly cost of health insurance for the child for whom support is being determined on Line 17. If the parent's weekly marginal cost is unknown at the time of the hearing, use the per capita cost of a family policy at the parent's place of work. Do *not* include health insurance costs for adults or other dependents.

Since the cost of health insurance is excluded from the child support schedules, a parent's contributions to a health insurance policy which includes the child for whom support is being determined must be added to the basic support award. Only the parent's cost of adding the child to the health insurance (medical and dental) policy is added to the basic support amount (i.e., the marginal premium cost to the parent to add the child to the policy). If the parent who is providing the health insurance has no proof of the cost of adding the child to the policy, the parent's total premium cost should be divided by the number of persons covered by the policy (per capita). The result is then multiplied by the number of children for whom support is being determined to obtain the child's estimated share of the health insurance cost. For example, if the parent's total health insurance cost is \$60 per week and there are four persons covered by the policy (the parent, the two children who are the subjects of the support order, and a new spouse), the per capita health insurance cost for the two children is \$30 ( $\$60 \div 4$  persons = \$15)  $\times$  2 children = \$30). If both parents provide health insurance for the child, each parent's marginal cost of adding the child to the policy should be added together to determine the total health insurance cost for the child. If the cost of the health insurance policy is unknown at the time of the support establishment hearing, the parent may apply for a modification of the support order when such information becomes available.

**Line 18 - Adding Predictable and Recurring Unreimbursed Health Care**

**Enter** the weekly unreimbursed cost of any health care, **if predictable and recurring**, for the child that exceeds \$250 per child per year on Line 18.

*Costs under \$250 per child per year* - Unreimbursed health care expenses (medical and dental expenses not covered by insurance) up to and including \$250 per child per year are included in the child support schedules and are assumed to be paid by the PPR. Because they are part of the basic child support order, these *ordinary* health care expenses are shared in proportion to the relative incomes of the parents.

*Predictable, Recurring Costs above \$250 per child per year* - Unreimbursed health care expenses in excess of \$250 per child per year are excluded from the child support schedules. If such expenses are **predictable and recurring**, they should be added to the basic support award using Line 18. The court should consider the duration and recurring nature of unreimbursed health care expenses prior to adding them to the basic support amount. If both parents provide predictable, recurring unreimbursed health care for the child, the cost to each parent should be added together to determine the total unreimbursed health care costs. Each parent's direct health care expenses for the child above the \$250 per child annual threshold are credited against his or her share of the total support award on Line 24.

*Unpredictable, Non-Recurring Costs above \$250 per child per year* - Health-care expenses for a child that exceed \$250 per child per year that are **not predictable and recurring** should be shared between the parents in proportion to their relative incomes as incurred. Since these expenses are not included in the support award, the procedure for sharing such costs should be set forth in the general language of the order or judgment.

**Line 19 - Adding Court-Approved Predictable and Recurring Extraordinary Expenses**

**Enter** court-approved **predictable and recurring** costs for the child on Line 19.

If approved by the court, predictable and recurring extraordinary expenses for the child **that are not included in the Appendix IX-F child support awards** may be added to the basic support amount. Examples of such extraordinary expenditures are PAR Time transportation expenses, special diets, and private education costs for gifted or handicapped children. See Appendix IX-A, paragraph 8, for a list of items that are included in the Appendix IX-F awards and an explanation of private education expenses that may be added to the basic support amount.

Extraordinary expenses that are **not predictable and recurring** should be shared between the parents in proportion to their relative incomes as incurred. Since these expenses are not included in the support award, the procedure for sharing such costs should be set forth in the general language of the order or judgment. Each parent's

direct spending on court-approved extraordinary expenses for the child are credited against his or her share of the total support award on Line 25.

**Line 20 - Total Supplemental Expenses**

**Add** the net child-care cost, health insurance cost for the child, unreimbursed predictable and recurring health-care costs greater than \$250 per child per year, and court-approved predictable and recurring extraordinary expenses. [Math: (Line 16 + Line 17 + Line 18 + Line 19)]. **Enter** the total supplemental expenses on Line 20.

**Line 21 - PAR's Share of the Total Supplemental Expenses**

**Multiply** the PAR's income share by the total supplemental expenses. [Math: PAR Line 6 × Line 20 total supplemental expenses]. **Enter** the PAR's share of the total supplemental expenses on Line 21.

**Line 22 - Credit for PAR's Child-Care Payments**

**Enter** the PAR's direct payments for work-related child-care for the child for whom support is being determined on Line 22. Note: payments cannot exceed the parent's net work-related child care cost added on Line 16.

**Line 23 - Credit for PAR's Payment of Child's Health Insurance Cost**

**Enter** the PAR's direct payments towards that parent's cost of adding the child to a health insurance policy on Line 23. NOTE: payments cannot exceed the parent's cost of health insurance for the child added on Line 17.

**Line 24 - Credit for PAR's Payment of Unreimbursed Health Care**

**Enter** the PAR's direct payments for predictable and recurring unreimbursed health care greater than \$250 per child per year on Line 24.  
**NOTE:** payments cannot exceed predictable and recurring unreimbursed health care expenses added on Line 18.

**Line 25 - Credit for PAR's Payment of Court-Approved Extraordinary Expenses**

**Enter** the PAR's direct payments for predictable and recurring extraordinary court-approved expenses on Line 25. NOTE: payments cannot exceed predictable and recurring extraordinary court-approved expenses added on Line 19.

**Line 26 - PAR's Total Payments for Supplemental Expenses**

**Add** the PAR's direct payments toward work-related child-care, the cost of adding the child to a health insurance policy, the predictable and recurring unreimbursed health care above \$250 per child per year, and the predictable and recurring extraordinary court-approved expenses. [Math: (Line 22 + Line 23 + Line 24 + Line 25)]. **Enter** the sum of all payments added on Line 26.

### **Line 27 - PAR's Net Supplemental Expenses**

**Subtract** the PAR's direct payments for child care, the child's share of the health insurance premium, predictable and recurring unreimbursed health care for the child above \$250 per year per child, and predictable and recurring extraordinary court-approved expenses from the PAR's share of the total supplemental expenses. The result is the PAR's net supplemental expenses for the child. [Math: (Line 21 - Line 26)] **Enter** the PAR's share of net supplemental expenses on Line 27.

Direct payments for supplemental expenses are subtracted from the PAR's share of total supplemental expenses before those expenses are added to the PAR's share of the adjusted shared parenting child support amount. **Direct payments may be deducted only if the cost was previously included as a supplemental expense.**

### **Line 28 - PAR's Net Child Support Obligation**

**Add** the PAR's share of the adjusted shared parenting basic child support amount and the PAR's share of the net supplemental expenses to determine the PAR's net child support obligation. [Math: (Line 15 + Line 27)]. **Enter** the PAR's net support obligation on Line 28.

The PAR's net obligation is the child support order that will be paid for the benefit of the children while they are residing with the PPR. Theoretically, the PPR also has a support obligation (although not calculated on the shared parenting worksheet) that is considered to be spent directly on the children during the course of providing for their daily needs.

**NOTE:** if the PAR's net obligation is a negative number, this amount must be paid by the PPR to the PAR to preserve each parent's income share of the total shared-parenting expenses. In this case, the PPR would be the obligor of the support order.

### **Lines 29, 30, and 31 - Adjusting the Child Support Obligation for Other Dependents**

1. If either parent requests an adjustment for other legal dependents, a Sole-Parenting worksheet must be prepared to determine the parent's theoretical support obligation for his or her other dependents. Additionally, two separate Shared-Parenting worksheets must be completed (if calculating the adjustment manually). The three worksheets will result in the following obligation amounts:

- a. Sole Parenting - a theoretical support obligation for the child in the alternate family (i.e., the parent requesting the adjustment is the theoretical obligor of the child in the alternate family);
- b. Primary Shared Parenting - a support obligation for the child for whom support is being determined calculated after the theoretical obligation for any other dependents (Line 2d) is deducted from the responsible parent's gross income; and

- c. Alternate Shared Parenting - a support obligation for the child for whom support is being determined calculated without deducting the theoretical obligation for other dependents (Line 2d) from the responsible parent's gross income.

2. To ensure that a fair share of the parent's income is available to all his or her legal dependents, add the parent's support obligation from the worksheet that includes the Line 2d other-dependent deduction and the parent's support obligation from the worksheet that does not include the Line 2d other dependent deduction. Divide the sum of the two support obligations by two to obtain the adjusted child support obligation.

**Line 29 - Line 28 PAR CS Obligation WITH Other Dependent Deduction**

**Enter** the PAR's net child support obligation (Line 28) from the worksheet that deducted a theoretical support obligation for other dependents of either parent (i.e., with the Line 2d other-dependent amount deducted from gross income).

**Line 30 - Line 28 PAR CS Obligation WITHOUT Other Dependent Deduction**

**Enter** the PAR's net child support obligation (Line 28) from the worksheet that does not deduct a theoretical support obligation for other dependents from the gross income of either parent.

**Line 31 - Adjusted PAR CS Obligation**

**Add** the obligation that includes the other-dependent deduction (Line 29) and the obligation that does not include the other-dependent deduction (Line 30), then **divide** the sum by two to obtain the Adjusted PAR Child Support Obligation. [Math:  $(\text{Line 29} + \text{Line 30}) \div 2$ ]. **Enter** the result on Line 31.

**Lines 32 and 33 - Maintaining a Self-Support Reserve**

To ensure that the PAR retains sufficient net income to live at a minimum subsistence level and has the incentive to work, that parent's net child support award is tested against 105% of the U.S. poverty guideline for one person. If the PAR's net income after deducting the child support award is less than the self-support reserve, the order should be adjusted. **No such adjustment shall occur, however, if the PPR's net income is less than the self-support reserve.** This priority is necessary to ensure that a PPR can meet his or her basic needs while caring for the child(ren). The poverty guideline will be disseminated by the AOC each February or when it is published in the Federal Register. The self-support reserve test is applied as follows:

1. Subtract obligor's child support obligation from that person's net income.
2. If the difference is greater than 105% of the poverty guideline for one person (\$219 per week as of January 23, 2009), the self-support reserve is preserved and the obligor's support obligation is the child support order.
3. If the difference is less than 105% of the poverty guideline for one person **and** the PPR's net income is greater than 105% of the poverty guideline, the obligor's

order is the difference between the obligor's net income and the 105% of the poverty guideline for one person.

In determining whether the application of the self-support reserve is appropriate, the court may need to impute income to a parent as provided in Appendix IX-A take into account a parent's actual living expenses, and/or consider the PPR's support obligation to the children (see Appendix IX-A, paragraph 20).

**NOTE:** In some family situations, (e.g., the PPR's income exceeds the PAR's income and shared parenting times are near equal), the PPR may owe child support to the PAR (in such cases, the PAR's obligation is a negative number). If this occurs, the self-support reserve should be tested using the PPR's net income and the absolute value of the PAR's negative obligation. In all cases, the PPR should be given the priority with regard to the self-support reserve.

### **Line 32 - Self-Support Reserve Test**

**Subtract** the PAR's net child support obligation from the PAR's net income. [Math: PAR's Line 5 net income - PAR Line 28 or 31 child support obligation. Note: if Line 28 or 31 is a negative number, the PPR is the obligor of that amount. **Enter** the PAR's result on Line 32. **Enter** the PPR's net income (from Line 5) on Line 32. Then,

***If the PAR's Line 32 is less than 105% of the poverty guideline and the PPR's Line 32 is greater than 105% of the poverty guideline, Go To*** Line 33.

***If the PAR's Line 32 is greater than 105% of the poverty guideline, Skip*** Line 33 and **Enter** the PAR's Line 28 or 31 child support obligation on Line 34.

**NOTE:** If the PPR Line 29 amount is less than 105% of the poverty guideline, there is no PAR self-support reserve adjustment. In this case, the PAR Line 28 or 31 amount is the final child support order (Line 31).

### **Line 33 - PAR's Maximum Child Support Order**

**Subtract** 105% of the poverty guideline from the PAR's net income to find the maximum child support order. [Math: Line 5 PAR net income - 105% of the poverty guideline]. **Enter** the result on Lines 33 and 34.

### **Line 34 - Child Support Order**

**Enter** the Line 28, 31 or 33 support amount to be paid by the obligor to the other parent for the benefit of the child. Generally the obligor will be the PAR. However, in some family situations, the PPR may be the obligor (if the PAR's obligation is a negative number). In those cases, enter the absolute (positive) value of the PAR's negative obligation (or the self-support reserve maximum amount) in the PPR's Line 34 column. Otherwise, enter the Line 28 PAR's net support obligation, the Line 31 other-dependent

adjusted obligation (if any), or the Line 33 maximum child support obligation (if any) on the PAR's Line 34.

**If the PAR is the obligor, go to Line 32. Otherwise, Line 31 is the final child support order.**

**Line 35 - PPR Household Income Test**

**Add** the PPR's net income from all sources (including means-tested income such as AFDC), the net income of other adults in the primary household, and the PAR shared parenting support order. [Math: PPR Line 5 net income + net income of other adults + PAR Line 34 child support order]. Enter the sum in the PPR's Line 35 column.

**Test:** If Line 35 is less than the PPR household income threshold for the PPR and the total number of persons in the primary household (see table in Appendix IX-A, paragraph 14), the award must be recalculated, **without adjusting for shared-parenting time**, using the Sole-Parenting Worksheet. If Line 35 exceeds the PPR household income threshold, the Line 34 child support order is appropriate.

**NOTE:** A PAR may still receive an adjustment for variable expenses when the sole parenting worksheet is used to recalculate the support award. If, however, the PPR's household income plus a PAR Time-adjusted support award is still below 200% of the poverty guideline, the application of the variable-expense adjustment is not presumptive (i.e., it is subject to the discretion of the court).