



Department of Public Health and Human Services

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Greg Gianforte, Governor
Adam Meier, Director

To: Temple McLean, Guidelines Coordinator
Re. Guidelines Review and Oversight Committee (GROC) Meetings
For Department of Public Health and Human Services (DPHHS) / Child Support Services Division (CSSD)

From: Priscilla Hochhalter, Writer / Recorder
Re. GROC Meetings
For DPHHS / CSSD

Re: 2021 February 09 GROC Meeting – Minutes

Date: 2021 February 19

Dear Temple:

For the above-noted meeting – kindly see the attached minutes, approved and prepared for public posting.

Sincerely,
Priscilla Hochhalter

Guidelines Review & Oversight Committee (GROC) – MINUTES
Regular Meeting (currently on second Tues. of Feb., May, Aug., Nov.)
2021 Feb. 09, 1:00–4:00p (U.S. Mountain Time) – via Zoom videoconference

PEOPLE (x = present; o = absent)

Name	Role	Telephone	Email	Site
x Chaffey, Casse	Compliance Specialist	406-329-7915	cchaffey@mt.gov	Missoula
x Helman, Dena	Compliance Specialist	406-497-6623	dhelman2@mt.gov	Butte
x Hochhalter, Priscilla	Writer / Recorder	406-444-2581	priscilla.hochhalter@mt.gov	Helena
o McDaniel, Terressa	Bureau Chief, OALJ	406-444-9088	tmcdaniel@mt.gov	Helena
x McLean, Temple	Guidelines Coordinator	406-655-5531	tmclean@mt.gov	Billings
x Probasco, Peg	Attorney, Staff (Retired)	406-490-6835	chefdog1@icloud.com	Butte
x Quinn, Patrick	Attorney, OLA / DIR	406-329-5460	pquinn@mt.gov	Missoula
x Rohrdanz, Vaughn	Investigators Supervisor	406-655-5522	vrohrdanz@mt.gov	Billings
x Strandell, Lori	Bureau Chief, Field Services	406-444-3338	lori.strandell@mt.gov	Helena
x Watne, Kim	Compliance Specialist	406-444-7753	kwatne@mt.gov	Helena
x Wigen, Micheale	Regional Manager	406-454-7754	mwigen@mt.gov	Great Falls

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I Call to order / General business

Temple opened the Zoom conference and called attention to the agenda attachments (below) for today's discussion...

1. Electronic Code of Federal Regulations (EFCR), Title 45, Subtitle B, Chapter III, Part 302, Section 302.56 – “Guidelines for setting child support orders” (<https://ecfr.federalregister.gov/current/title-45/subtitle-B/chapter-III/part-302/section-302.56>).
2. Family Court of the State of Delaware: “Delaware Child Support Formula Evaluation and Update – Report of the Family Court Judiciary,” 2018 Nov. 08, by Chief Judge Michael K. Newell, pages 4, 13–16 (<https://courts.delaware.gov/forms/download.aspx?id=39228>).

II MTCS software

Per Temple, an update to the Montana Child Support (MTCS) software is due for release later this year; the exact timeline is unknown.

MTCS, created by CPA Nick Bordeau for Montana's child support calculations, was purchased last year by (attorney) Thorin Geist.

III 2020 Quadrennial Review

The 2020 Quadrennial Review must meet new requirements—e.g., the Report must address new details on children's health care coverage and incarcerated obligors, and must be published online. See attachment 1 (ECFR excerpt), items (c)(2), (c)(3), and (e).

- In January our 2020 Quadrennial Report was sent for review to Diane Degenhart, the regional program manager in the Office of Child Support Enforcement (OCSE) under the U.S. Department of Health and Human Services (DHHS). Diane oversees CSSD's Quadrennial Report and Montana's overall State Plan. She indicated the Report may need more work, especially regarding incarcerated obligors.

- Background: COVID-19 relief included a relaxing of the Stafford Act requirements for submissions of State Plans that, like Montana's, were due in December 2020. Montana applied for, and was granted, an exemption for an extra year of relief, allowing time to submit the Quadrennial Report for review before submitting it with the formal plan later this year.

- * - Task: Temple will ask Diane to clarify all aspects of the Report that need work.

IV 2024 Quadrennial Review

Temple initiated discussion on each of the items below.

A When counting income available for child support, should the amount paid in taxes be excluded—and can an economist be hired to assess impacts?

- Pros: The main reason to exclude taxes is to make the guidelines easier to use and update. Tax law is complex and changeable; in 2018-2019, Nick Bordeau had to massively reprogram MTCS software to keep up. Excluding taxes would eliminate this issue, and simplify things for guidelines users.

- Cons: The main point against excluding taxes is that the unintended consequences and economic impacts of doing so have not been determined.

The group discussed options, including attachment 2—Delaware's recommendation (and, as their calculations show, implementation) of tax exclusion.

- Note: See the National Conference of State Legislators (NCSL) website, <https://www.ncsl.org/research/human-services/guideline-models-by-state.aspx>, for details on how various states handle their child support guidelines.

- Currently, only Delaware and Georgia exclude taxes; Montana is like Delaware in having no sales tax (with Alaska, New Hampshire, Oregon), and like Georgia in having administrative oversight of the state guidelines granted by statute. Delaware also is helpful as they developed the Melson model (the basis of Montana's “modified Melson”); only about three states use a Melson-type model.

- For the Melson self-support reserve, Montana uses poverty index guidelines (PIG), at 130%; Delaware doesn't use PIG, and so calculates it differently. The group continued discussing the ramifications of excluding taxes from the calculations...

- Peg said we could assume it makes sense to exclude taxes, and do so from the start; she asked, when does child support become family support?

- Kim said some people pay zero taxes but still get huge refunds, so both sides must be considered.

- Lori said it's a goal to keep amounts fair and equitable, but not necessarily to keep them the same; some asked if “fair and equitable” is a requirement.

- Temple said the requirements don't say “fair and equitable,” but fairness is a big concern; that's why our 2002–2003 testing led us to the Melson model.

- Temple added it would be helpful to find out what percentage of our cases fall within each of the various income (tax) brackets.

- Vaughn said people's ideas of what's best for child support—an artificial, man-made construct—do vary greatly from state to state, and taxes especially are a huge wild card that can make huge changes in the outcome.

- Micheale agreed that each factor can create unforeseen effects. Example: The Earned Income Tax Credit (EITC or EIC) is meant to help low-income parents but—when counted as income, as in Montana—can create hardships by increasing a custodial parent's percentage of fiscal responsibility.

- Also, Micheale said, there should be consistency. Different people using the same guidelines should arrive at the same amount.

- In sum, everyone wants consistency, and no one specifically opposes excluding taxes—as long as there is an accurate assessment of the impacts.

- Vaughn asked if there is consideration of any entirely new and different model(s).

- Temple said significant changes in the model we use would require a professional economist to fully assess impacts; also, excluding taxes—the only way to avoid ongoing updates to keep up with tax law—would have impacts. Thus, she has been planning to seek bids from a few economists.

- * - Task: To meet the need identified above, Temple will seek bids from a few economists for future budget purposes.

B Adding parents and representatives to the GROC

- Temple is seeking guidelines users (parents, legal representatives, etc.) who could join the GROC. See also “Meaningful input from users,” below.

C Allowance for scheduled work by GROC members

- Temple will get a testing platform, maybe from Delaware, and—after the SEARCHS Transformation Project—use testers (who needn't be in the GROC) to test the effects of excluding taxes from calculations, starting with the 2018–2019 tax changes. Lori, Casse, Patrick, and Vaughn volunteered to test.

- * - Task: Temple will continue pursuing a testing platform and will provide ongoing communication to the volunteer testers.

D Meeting schedule

- Temple asked about changing the meeting schedule, perhaps to every other month. It was decided that for now, we will continue to meet quarterly.

V Meaningful input from users

CSSD is required to provide opportunity for input from guidelines users, from legal professionals to low-income parents; see attachment 1, page 3 (3).

A General outreach

- Temple is seeking contacts to help find non-CSSD parties who can perhaps join the GROC, or can help develop a proposed new survey with a focus on low income parents. Two such contacts are attorneys who work with Montana Legal Services Association (MLSA), for low-income clients; and one is a private attorney of collaborative law, who has a list of Montana attorneys that may be able to help in developing a new survey. Peg requested this list.

* - Task: Temple will keep seeking contacts and will send Peg the list of Montana attorneys who might help with the survey.

B Specific outreach – via presentations / surveys / etc.

- Temple is reviewing the survey of 2002 as a model for the new survey of guidelines users.

* - Task: Temple will keep working toward preparing the new survey.

VI Outreach / judicial conference(s)

This discussion covered the upcoming May 12–14 judicial conference in Lewistown, MT.

- Peg and Patrick are preparing for the conference.

- Temple is creating a two-sided handout: one side is a map of Montana, divided into its CSSD regions; the other is a list of staff attorney names and direct phone numbers (not for public distribution) for each region.

* - Task: Lori will reserve lodging for Peg and Patrick, possibly in a hotel suggested by Peg.

* - Task: Temple will create the handout described above.

VII Ongoing training – self-employment (S-E) income

The items below all relate to training on how to treat self-employment (S-E) income in the support calculations.

A Basic course, by Administrative Law Judge (ALJ) Robin Hall: In this video training, Temple is working out snags in ADA captioning and the Q&A portion; the latter may need to be in a different format, possibly PowerPoint or text transcription. Lori and CSSD trainers are reviewing this video training.

B Advanced course, by Temple: In this video training, Temple is still working on ADA compliance.

C Each region still needs “specialists” who can help, or recruit others to help, with analysis and training regarding S-E income.

- Vaughn volunteered for Region 3.

- Casse said she will ask Lance Oaas, given his general interest and personal experience regarding self-employment.

D Not discussed today: Peg’s scenarios – when to implement? After S-E training “attendance,” or...?

VIII Military basic allowance for housing (BAH)

Not discussed today: Confirm policy in light of 2020 Yellowstone County District Court (YCDC) action finalized; Petition for Judicial Review (PJR) not final.

IX Calculations audit

This audit may resume in the summer.

X Other

No additional agenda items were submitted.

XI Adjournment / Next meeting

This meeting was adjourned. The next one is scheduled as usual (the second Tuesday of the second month of the quarter) for May 11, 1:00–4:00 pm.