Disability Benefits

Social Security Benefits

SSI (Supplemental Security Income) Benefits

A Comparison

Source of Benefits

- Social Security
- SSI
- Title II benefits
- Title XVI benefits
- Amount of benefit based on quarters worked and amount paid in
- Need-based aid in subsistence amount

Children and Benefits

- Social Security
- SSI
- Considered income for child support purposes
- Dependent derivative benefits may be available for the minor children.
- Not income for child support purposes.
- May receive as a "supplement" if Social Security benefits are less than subsistence amount.
- No dependent benefits available for minor children.

Derivative Benefits for Children

- Dependent derivative benefits are income to the disabled parent regardless of which parent is designated as the payee.
- Total amount of dependent benefits is fixed
 - May not increase as number of dependent children increases.

Current Support

Old Law M.S. §518.551, subd. 5(1)

In establishing or modifying child support, if a child receives... [social security dependent benefits] because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered shall be offset by the amount of the child's benefit

New Law Minn. Stat. §518A.31

- (a) The amount of the monthly Social Security benefits... provided for a joint child shall be included in the gross income of the parent on whose eligibility the benefits are based
- (c) If Social Security benefits are provided for a joint child based on the eligibility of the obligor, and are received by the oblige as representative payee for the child... then the amount of the benefits shall be subtracted from the obligor's net child support obligation

ChildSupportGuidelinesV	Forkshoot			Page	
	Child Support Guidelines Workshee	đ			
Parent A: John Smith	IV-D Case Number: 0000000000 01		Number of Joint Children:		
Parent B; Jane Smith	Court File Number: FA-09-1234	Date: 7/7/2009			
		Parent A	Parent B	Combined	
Income	1a, Monthly Income Received	\$1856	50		
	15. Child(ren)'s Social Security/Veterans' Benefits Derived From a Parent's Eligibility	\$948	\$D	-	
	1c. Potential Income	\$0	\$1699		
	1d. Spoussi Maintenance Orders Obligated to be Paid	90	\$0		
	Se. Child Support Order(s) Obligated to be Paid for Nonjoint Child(ren)	80	80		
	11. Monthly Gross Income (1a+1b+1c-1d-1e)	\$2844	\$1000		
Adjustments	2s. Number of Nonjoint Child(ser) in the Home (Maximum number allowed in 2)	0	0		
	2b. Deduction for Nor(oint Child(xen) in the Horns	\$0	\$0	****	
	3. Parental Income for Determining Child Support (PKCS)	\$2544	\$1500	84443	
	4. Percentage Share of Combined PICS	64%	30%		
	5. Combined Basic Support Obligation	-		\$707	
	5. Pro Rata Basic Support Obligation	8504			
Basic Child Support Obligation	7. Basic Support Obligation After Parenting Experise Adjustment	8504			
Child Care Obligation	8. Châd Care Support Obligation for Joint Châd(ren)				
Medical Support Obligation	Sa. Monthly Cost of Health Care Coverage for Joint Child (ser)	\$0	\$0		
	Sts. Pro Ratu Share of Health Care Coverage Costs	80	80		
Appropriate Coverage	Ro. Contribution to Health Care Coverage				
Available	9d. Monitrly Cost of Dental Coverage for Joint Child(ren)	80	80	1100	
	Se. Pro Rate Share of Dental Coverage Costs	50	80		
	96. Contribution to Dental Coverage				
	Bg. Medical Support Obligation-Appropriate Coverage Available				
No Appropriate Insurance Available	10. Medical Support Chilgation for Public Coverage	\$873	80		
Uninsured/Unreimbursed Expenses	11. Share of Uninsured and/or Unreimburged Medical Expenses	64%	36%	-	
	12. Not Child Support Obligation	\$697	80	-	
Benefits Adjustment	13. Chās(ren)'s Social Security/Veterans' Benefits Derived from Parent's Eligibility	\$948	80	-	
Computing a Final	14. Total Child Support Obligation	\$0	\$0		
Obligation	15s. Monthly Gross Income	\$2844	\$1999		
Ability to Pay Calculation	15b. Income Available for Support	\$1761	\$516		
	16. Monthly Chiki Support Obligation - No Adjustment Necessary	\$1)	\$0	****	
	17. Amount of Reduction	50	\$0		
Child Support Obligation	18. Medical Support	1			

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ChildSupportGuidelinesWorkshoot Page 1 of 2 Child Support Guidelines Worksheet	
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Derivative Benefits in Excess of Obligation

Old Law

New Law

Any [Social Security dependent] benefit received by the child in any given month in excess of the child support obligation shall not be treated as an arrearage payment or a future payment.

No similar statutory provision, but see:

- Holmberg v. Holmberg, 578
 N.W. 2d 817 (Minn. App. 1998), aff'd 588 N.W. 2d 720 (Minn. 1999).
- Casper and Winona County v. Casper, 593 N.W.2d 709 (Minn. App. 1999).

- If the monthly amount of Social Security dependent benefits exceeds the total guidelines support obligation, the obligor "is not entitled to recover the difference from the child or the custodial parent." *Holmberg* at 827.
- If a child receives Social Security benefits based on a parent's eligibility, and the child's dependent benefits exceed the parent's guidelines support obligation, then "the excess is deemed 'a gratuity' and [is] not recoverable by the obligor." *Casper* at 713 (citing Holmberg at 844).

Satisfaction of Arrears

- No statutory provision, new or old, addresses this issue.
- Under the Casper decision, an obligor may receive credit against arrears for any lump sum Social Security payment received by the child, at the time eligibility for benefits is decided, but only for arrears which accrued during the same time period covered by the lump sum.

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■ The obligor may not receive credit against any arrears which accrued <u>before</u> the date the obligor became eligible for Social Security benefits.	
 If the obligor already paid support during the time period for which the child receives a lump sum, the obligor is NOT entitled to a refund. Any "excess" amount paid by the Social Security Administration for the benefit of the child above and beyond the arrears owed for that specific time period is to be regarded as a gift to the child. Casper at 713.	
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