

Review of the West Virginia Child Support Guidelines

Presentation to Child Support Guidelines Commission (April 1, 2022)

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Two Documents: Addendum updates to 2022 levels

Review of the West Virginia
Child Support Guidelines:
Updated Table
and Findings
from Analysis of Case File Data

(Jan. 10, 2022)

Addendum to:
Review of the West Virginia
Child Support Guidelines:
Updated Table
and Findings
from Analysis of Case File Data

Updates to 2022 Price levels and for
2022 Federal Poverty Guidelines

(March 11, 2022)

Overview (1/2)

- Federal requirements for a periodic review of the child support guidelines
 - 1987: States required to have advisory guidelines
 - 1989: States required to have rebuttable presumptive guidelines
 - 2016: Major expansion of federal requirements
 - New requirements of what must be considered in a guidelines (pp 76-89 of Jan report)
 - 14 factors to be considered when imputing income
 - Not treating incarceration to be voluntary unemployment
 - New requirements on what must be considered in a guidelines review
 - Analysis of case file data and labor market data (Section 2 of January report)
 - Continued requirement: Analysis of economic data on the cost of raising children (Section 3 of January report)
 - Used as basis of child support table
 - Existing based on 1999 data

Overview (2/2)

- Next steps
 - Deliberate, information-gathering, and ultimately make recommendations (see pp 104-106 of Jan report for considerations)
 - Update table? (See Appendix C of March Addendum for \$ amounts, see pp 49-75 of Jan report, particularly exhibit 36 of p. 51 of January report and updated table on page 2 of Addendum)
 - Update self-support reserve in worksheet? (see pp 7-8 of addendum for impact, see p. 98 of Jan report for why)
 - Meet new federal requirements? (see pp 76-89 of Jan report)

Purpose of January Report (p. 1)

- Document the analysis of data for the 2021-2022 West Virginia child support guidelines review, including the analysis of economic evidence on the cost of raising children;
- Use current economic evidence to develop a proposed, updated child support table for West Virginia;
- Document the basis of a proposed, updated table;
- Recommend an updated ability to pay calculation that is part of the current guidelines;
- Provide examples of provisions that West Virginia could adapt to meet new federal requirements (45 C.F.R. § 302.56(c)) concerning income imputation that are aimed at better serving low-income families and obligated parents with no or little earning capacity as well as no or limited financial resources.

ADDENDUM

- Update to 2022 price levels
- Update for 2022 federal poverty guidelines
- Update table for above
- Update comparisons of the impact of the updated table for above

Page 2 of Jan Report

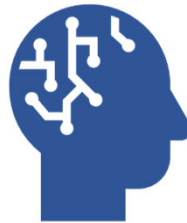
Federal Requirements since 1988

- Have one set of guidelines to be used by judges (and all persons within a state with the authority) to issue a child support order;
- Provide that the guidelines are rebuttal and develop state criteria for rebutting them;
- Consider all earnings and income of the noncustodial parent in the calculation of support;
- Produce a numeric, sum-certain amount;
- Provide for the child's healthcare coverage; and
- Review their guidelines at least once every four years and as part of that review analyze guidelines deviations.

Will discuss expanded 2016 requirements later

Organization of reports

- Section 1: Intro
 - General statistics
 - How to calculate support
- Section 2: Analysis of case file data and labor market data
- Section 3: Economic cost of raising children and steps and assumptions to update table
- Section 4: Meeting new federal requirements (non-economic)
- Section 5: Comparisons of updated table to existing table and updated low-income adjustment
- Section 6: Conclusions and recommendations
- Appendix C: Side by side comparison of existing and updated tables: 2 options
 - Update for income differences
 - Update for cost of living differences
- Addendum: updates proposed tables and comparisons to 2022 price levels



Federal Requirements of State Guidelines Reviews

45 C.F.R 302.56 (e) and (h) (Jan report, p. 7)

(e) The State must review, and revise, if appropriate, the child support guidelines established under paragraph (a) of this section **at least once every four years to ensure that their application results in the determination of appropriate child support order amounts**. The State shall publish on the internet and make accessible to the public all reports of the guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.

(h) As part of the review of a State's child support guidelines required under paragraph (e) of this section, a State must:

- (1) **Consider economic data on the cost of raising children**, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders;
- (2) Analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g); and
- (3) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV–D of the Act.

Fulfill Federal Requirements of Reviews (Section 2 of Jan Report)

Continued Requirement		New Requirement	
Consider economic data on the cost of raising children	Jan report Section 3	Consider labor market data	Jan report Section 2
		Impact of guidelines policies on parents with low income	Jan report Section 5
		Factors that influence employment rates and compliance	Jan report Section 2
Consider case file data on application of and deviation from the guidelines	Jan report Section 2	Rates of default, imputation, and application of low-income adjustment	
		Comparison of payments by case characteristics including default, imputation, and application of the low-income adjustment	
Review, and revise, if appropriate, the child support guidelines	Commission recommends, Legislature makes change	Provide meaningful opportunity for public input, including input from low-income parties	BCSE published report online, provided opportunity for public comment, and IVD representation on Commission
		Obtain the views and advice of the IV-D agency	
		Publish report on internet, membership of reviewing body, and effective date of the guidelines and next review	

Jan report, Section 2: Analysis of Case File Data

BCSE Extract from OCSAR

- 3,300 orders for current support that were new or modified in SFY 2018-19
- Payment data the following year
- Supplement of manual review of 200 orders of deviations
- Excluded closed cases: 2,288 orders for analysis
- Data limitations: non-BCSE cases not analyzed, deviation data, missing data

Exhibit 5, page 14

- 1 child: 62%
- 2 children: 28%
- 3 children: 8%
- 4+ children: 2%

Jan report, Exhibit 6, p 15

	Orders Used for Analysis		
	Total	Modified	New
Monthly Order Amounts*	N=1,926	N=806	N=1,120
Mean	\$299	\$329	\$278
Median	\$254	\$290	\$248
Range	\$0-\$3,826	\$0-\$2,575	\$0-\$3,826

Jan report, Exhibit 7, p 16

	All Orders Used for Analysis		
	Total (N=2,019)	Modified (N=810)	New (N=1,209)
Relationship of Obligated Parent to Child			
Mother	12%	9%	14%
Father	87%	91%	85%
Relationship of Custodial Person to Child			
Mother	81%	85%	78%
Father	5%	6%	5%
Non-parent relative	13%	9%	15%
Other	1%	<1%	2%
Incarceration of the Obligated Parent			
No Incarceration dates noted	82%	79%	84%
Incarcerated, released before sample selection year	6%	8%	5%
Incarcerated for part or all of sample selection year	6%	8%	5%
Incarceration started after sample selection year	5%	5%	6%

Jan report, Exhibit 10, p 18

	All Orders Used for Analysis		
	Total (N=2,019)	Modified (N=810)	New (N=1,209)
Monthly Gross Income of the Obligated Parent			
\$0	4%	5%	4%
\$1 – \$550	<1%	-	<1%
\$551 – \$1,000	7%	6%	7%
\$1,001 – \$1,250	16%	14%	17%
\$1,251 – \$1,550	32%	25%	36%
\$1,551 – \$2,000	9%	10%	8%
\$2,000 – \$3,000	13%	13%	13%
\$3,001 – \$5,000	13%	17%	10%
More than \$5,000	7%	10%	5%
Monthly Gross Income of the Receiving Party			
\$0	25%	14%	33%
\$1 – \$550	2%	1%	2%
\$551 – \$1,000	9%	8%	9%
\$1,001 – \$1,250	11%	15%	9%
\$1,251 – \$1,550	24%	25%	23%
\$1,551 – \$2,000	9%	10%	8%
\$2,000 – \$3,000	11%	14%	9%
\$3,001 – \$5,000	6%	10%	4%
More than \$5,000	2%	3%	2%

State minimum wage = \$8.75 per hour

40 hours per week = \$1,517/mo

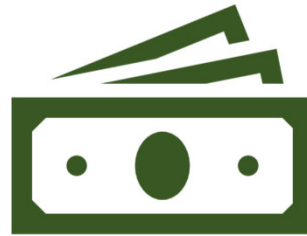
Analysis of Federally Required Fields (pp 26 -32, Exhibit 35, p 47)

- 27% of obligated parents had income imputed (attributed)
- 18% of receiving parties had income imputed (attributed)
- Defaults and income imputation are correlated
- 5% eligible for minimum order
- 58% had incomes less than \$1,550 per month (ability to pay calculation)
- Deviations noted in 47% of analyzed order
 - Deviation rate higher than last review, which relied on a different methodology
- Labor market data (pp 41-48)

	Employment per 1,000 jobs	Mean Hourly Wage
Office and Administrative Support Occupations	133.764	\$17.01
Receptionists and information clerks	7.645	\$13.39
Sales and Related	92.088	\$15.64
Cashiers	28.813	\$10.88
Retail salespersons	28.692	\$12.95
Transportation and Material Moving	85.176	\$17.18
Laborers and freight, stock, and material mover	14.695	\$14.72
Food Preparation and Serving	84.275	\$11.75
Fast food and counter workers	32.052	\$10.29
Waiters and waitresses	13.314	\$13.06
Construction and Extraction Occupations	61.454	\$23.59
Construction laborers	10.975	\$17.50
Healthcare Support Occupations	51.405	\$12.94
Home health and personal care Aides	23.693	\$10.45

Jan report, Exhibit 22, p. 33

	All Charging Orders		
	Total (N=1,591)	Modified (N=668)	New (N=923)
Percentage that Made Payments			
Yes	88%	91%	85%
No	12%	9%	15%
Total Support Paid Over Year			
Mean	\$2,741	\$3,186	\$2,419
Median	\$1,859	\$2,391	\$1,414
Average Monthly Support Paid			
Mean	\$228	\$265	\$202
Median	\$155	\$199	\$118
Months with Payment			
Mean	7.4	8.1	6.9
Median	9.0	11.0	8.0
Percentage of Support Due that was Paid			
Mean	58%	65%	53%
Median	69%	83%	58%



Analysis of Economic Data on the Cost of Raising Children

Child Support Table: (Jan report, p. 6)

Example:

1 Child

Mother: \$1,500

Father: \$1,500

Combined = \$3,000

Basic obligation from schedule = \$496

Order = \$834 X 50% = \$248

Combined Gross Monthly Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
3000	496	717	843	931	1010	1080
3050	500	723	850	939	1018	1089
3100	504	729	856	946	1026	1097
3150	509	735	863	953	1033	1106
3200	513	740	869	961	1041	1114
3250	517	746	876	968	1049	1123
3300	521	752	882	975	1057	1131
3350	524	757	888	981	1064	1138
3400	527	761	893	987	1070	1145
3450	531	766	899	993	1077	1152
3500	534	771	904	999	1083	1159
3550	537	775	910	1006	1090	1166
3600	541	780	916	1012	1097	1173
3650	544	785	921	1018	1103	1180
3700	547	790	927	1024	1110	1187

Assumptions and Data Underlying Existing Schedule & What Could Be Updated (Addendum, p. 2)

Factor	Basis of Existing	Basis of Updated Tables	Other Alternatives/Notes
1. Guidelines model	Income shares model	Income shares model	41 states use the income shares model
2. Economic study	First Betson-Rothbarth (BR) study (1990)	Most current Betson-Rothbarth study (2021)	Other studies of child-rearing expenditures
3. Price levels	Jan. 1999	Nov. 2021-February 2022	Prices have increased 69 percent between the two time periods
4. Adjust for West Virginia's incomes/cost of living	Income realignment using 1990 Census data on West Virginia and U.S. average incomes	- Option 1: income realignment using 2019 data - Option 2: 2020 West Virginia price parity	Price parity is a new measurement. The most recent data is from 2020: West Virginia prices are 88 percent of the national average
5. Exclude childcare, child's health insurance premium, and extraordinary out-of-pocket medical expenses	Excludes all but the first \$250 per child per year in ordinary, out-of-pocket medical expenses	No change	- Retain assumption - Exclude all - Ohio approach
6. Consider expenditures to gross income Step 1: Convert to net income Step 2: Consider federal and state income taxes and FICA	- Converts expenditures to net income using data from same families in CE that Betson uses - Caps expenditures at 100% 1999 federal and state income tax withholding formulas for a single taxpayer	- No change to Step 1 2021 tax rates for single taxpayer	- Assume all after-tax income is spent - Various tax assumptions, including tax rates of married couple with children
7. Table/formula for high incomes	Table considers incomes up to \$15,000 per month with formula above that	Extend table to \$35,000 per month	Provide formula above combined gross incomes of \$35,000 per month
8. Provide for consideration of the parent's basic subsistence needs	- Adjustment made in worksheet - Self-support reserve of \$500 per month	Update the SSR amount	- Other adjustments 2021 federal poverty guidelines for 1 person = \$1,073

Assumptions and Data Underlying Existing Table & What Could Be Updated (Addendum, p. 2)

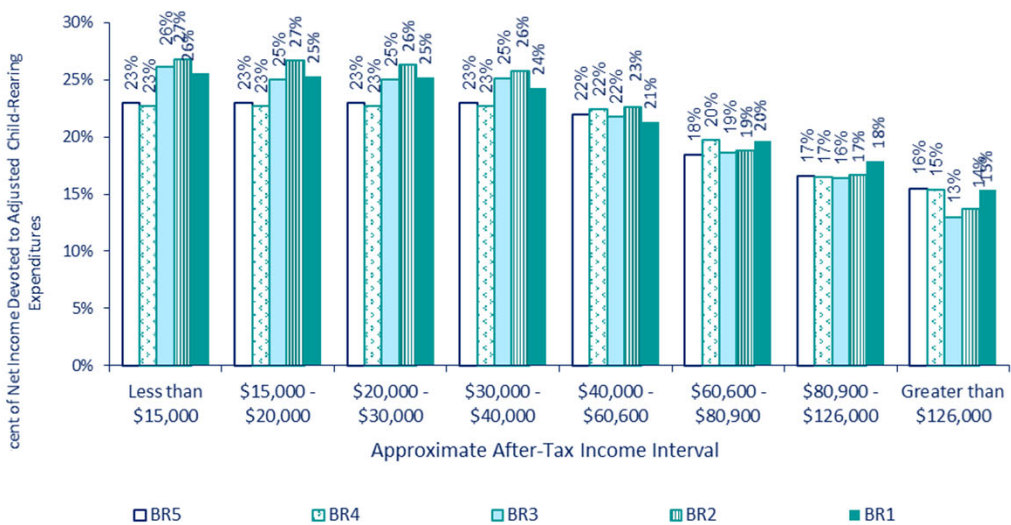
child support tables are part policy
and part data

Studies of Child-Rearing Expenditures (Jan report Section 2)

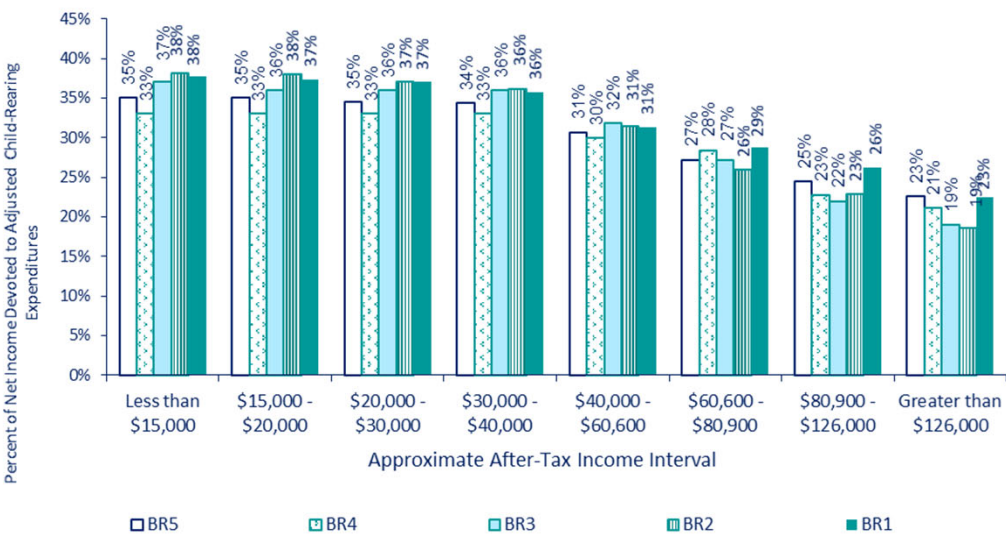
Study Name and CES Years	Study Year	Full Reference
Van der Gaag	1981	Jacques van der Gaag, On Measuring the Cost of Children, Discussion Paper No. 663-81 (Univ. of Wisconsin Inst. for Research on Poverty, 1981)
Espenshade	1984	Thomas J. Espenshade, Investing in Children: New Estimates of Parental Expenditures (Urban Inst. Press, 1984).
Lewin Report (compared methods)	1990	Lewin/ICF. (1990). Estimates of Expenditures on Children and Child Support Guidelines. Report to U.S. Department of Health and Human Services, Office of the Assist. Secretary for Planning and Evaluation. Virginia
Betson-Rothbarth 1 (BR1) CE: 1980-86	1990	David M. Betson (1990). <i>Alternative Estimates of the Cost of Children from the 1980-86 Consumer Expenditure Survey</i> , Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.
Betson-Rothbarth 4 (BR4) CE: 2004-09	2010	Betson, David M. (2010). "Appendix A: Parental Expenditures on Children." in Judicial Council of California, <i>Review of Statewide Uniform Child Support Guideline</i> . San Fran-cisco, California. Retrieved from: http://www.courts.ca.gov/partners/documents/2011SRL6aGuidelineReview.pdf
Rodgers-Rothbarth/NJ CE: 2000-11	2012	New Jersey Child Support Institute (March 2013). <i>Quadrennial Review: Final Report, Institute for Families</i> , Rutgers, the State University of New Jersey, New Brunswick, NJ. Retrieved from: http://www.judiciary.state.nj.us/reports2013/F0_NJ+QuadrennialReview-Final_3.22.13_complete.pdf
Comanor (CE: 2004-09)	2015	Comanor, William, Sarro, Mark, and Rogers, Mark. (2015). "The Monetary Cost of Raising Children." In (ed.) <i>Economic and Legal Issues in Competition, Intellectual Property, Bankruptcy, and the Cost of Raising Children</i> (Research in Law and Economics), Vol. 27). Emerald Group Publishing Limited, pp. 209–51
USDA (CE: 2011-2015)	2017	Lino, Mark (2017). <i>Expenditures on Children by Families: 2015 Annual Report</i> . U.S. Department of Agriculture, Center for Nutrition and Policy Promotion. Miscellaneous Publication No. 1528-2015, Washington, D.C. http://www.cnpp.usda.gov/publications/crc/crc2017.pdf
Rodgers-Rothbarth/Nat'l (2000-2015)	2018	Rodgers, William M. (2017) "Comparative Economic Analysis of Current Economic Research on Child-Rearing Expenditures." In Judicial Council of California, <i>Review of Statewide Uniform Child Support Guideline 2017</i> . San Francisco, CA. Retrieved from http://www.courts.ca.gov/documents/lr-2018-JC-review-of-statewide-CS-guideline-2017-Fam-4054a.pdf .
Betson-Rothbarth (BR5) CE: 2013-19	2020	Betson, David M. (March 3, 2021 revised). "Appendix A Parental Expenditures on Children." in Venohr, Jane and Matyasic, Savahanna, <i>Review of Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule</i> . Report to the Arizona Supreme Court Administrative Office of the Courts https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187

Changes in Beton-Rothbarth Measurements over time (pp58-59)

One child



Two Children



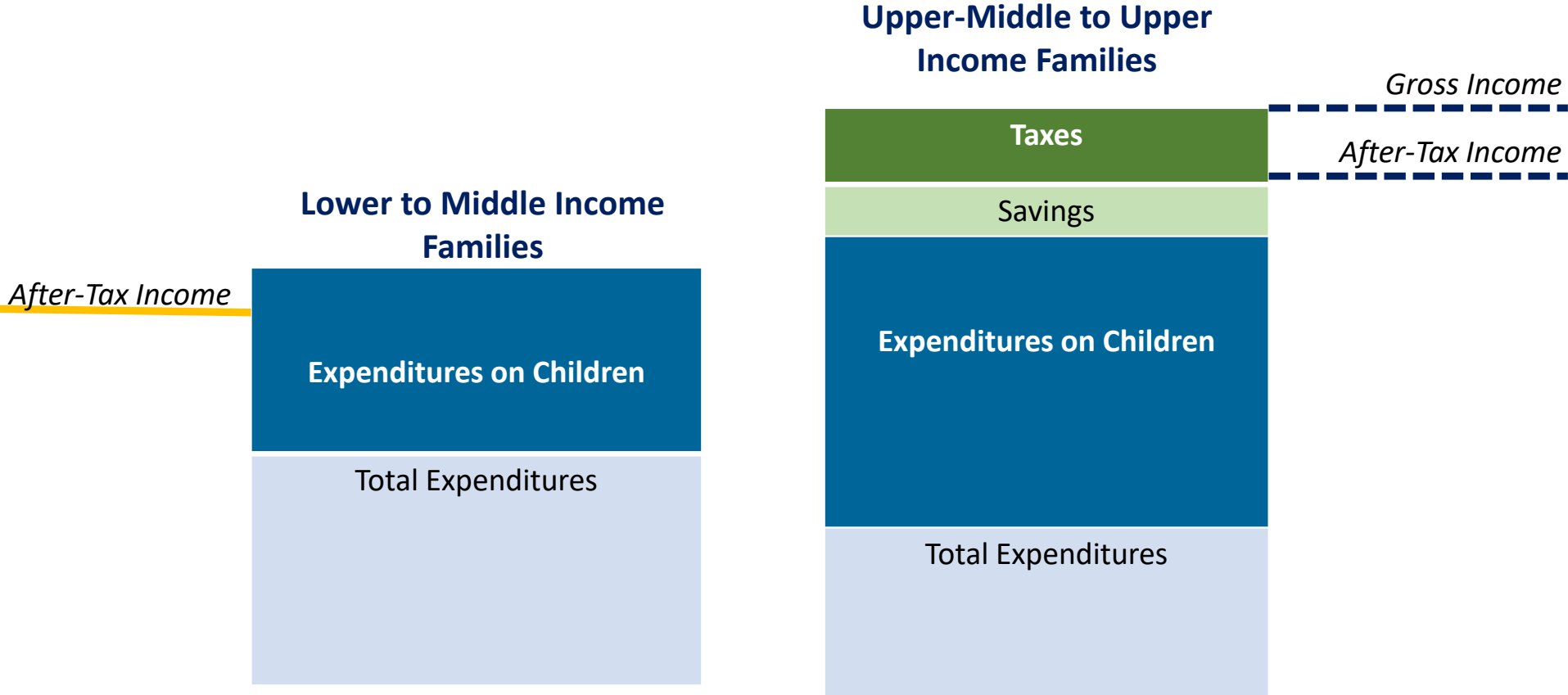
Consumer Expenditure Survey

- <https://www.bls.gov/cex/>
- Conducted by the U.S. Bureau of Labor Statistics
- Primary purpose: shape market basket used to track inflation
- Ongoing survey
- About 6,000 households each quarter
- Hundreds of items
- Each household stays in for 4 quarters (earlier years: 5 quarters)
- Designed to be nationally representative
 - Also 4 regions: NE, South, Midwest and West
 - Recently added state-specific for largest states

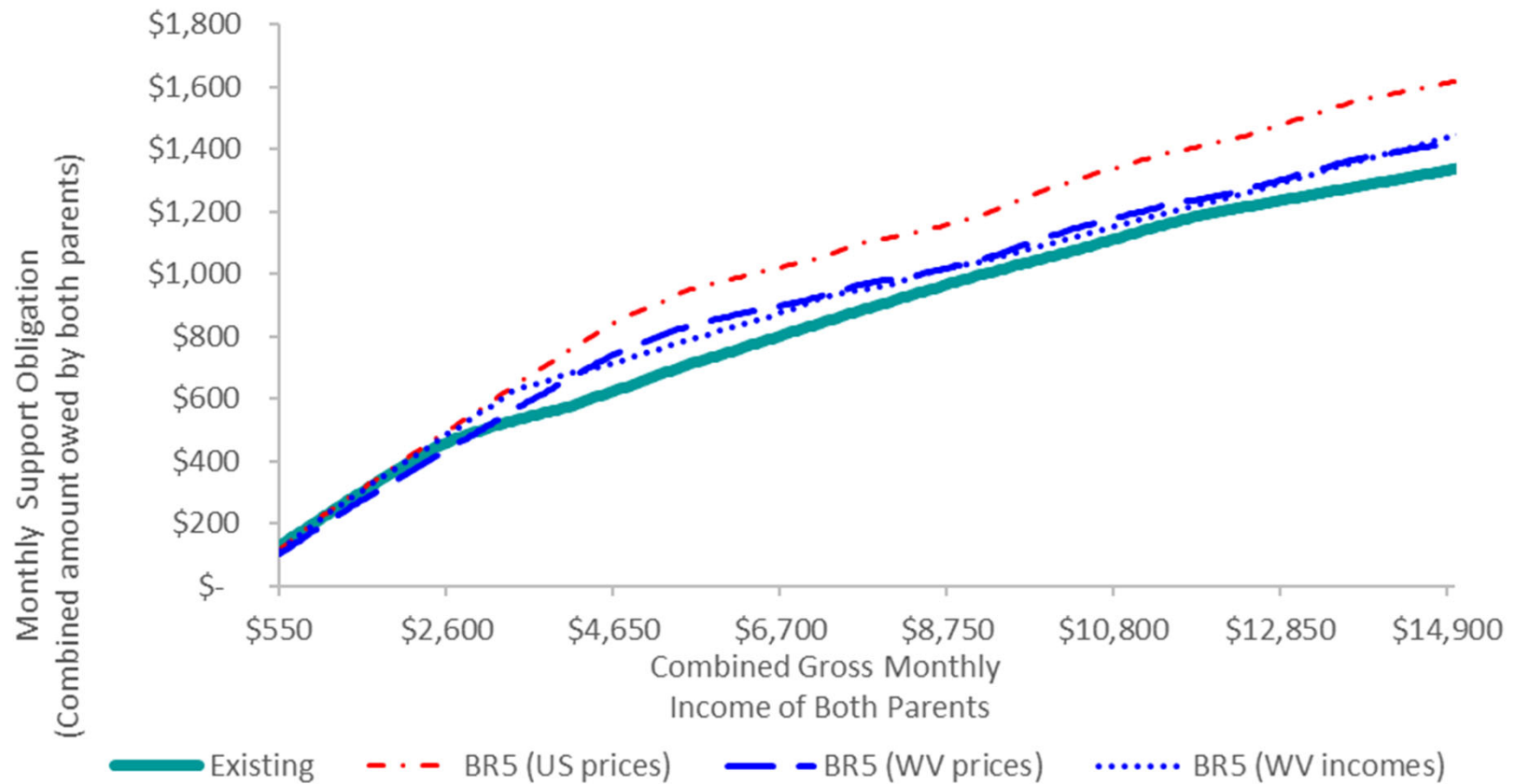
Consumer Expenditure Survey changes (p 54 of Jan report)

- Improved how measured income
 - Overstated those with low incomes: those with actual low incomes spend less than previously thought
 - Expenditures to “Outlays”
 - Expenditures didn’t include mortgage principle and installment payments
 - Increased amounts at higher incomes because more leveraged
- Calculated taxes rather than self-report
 - Families had less disposable income, so squeezing of expenditures to disposable income ratios
 - Increased amounts at higher incomes
- Also there is a margin of error (i.e., not all samples will produce the exact same amounts)

Average Expenditures to After-Tax Income Ratios (p. 60)



Jan report, Exhibit 42 p. 65: 1 Child



Jan report, Exhibit 43 p. 65: 2 Children

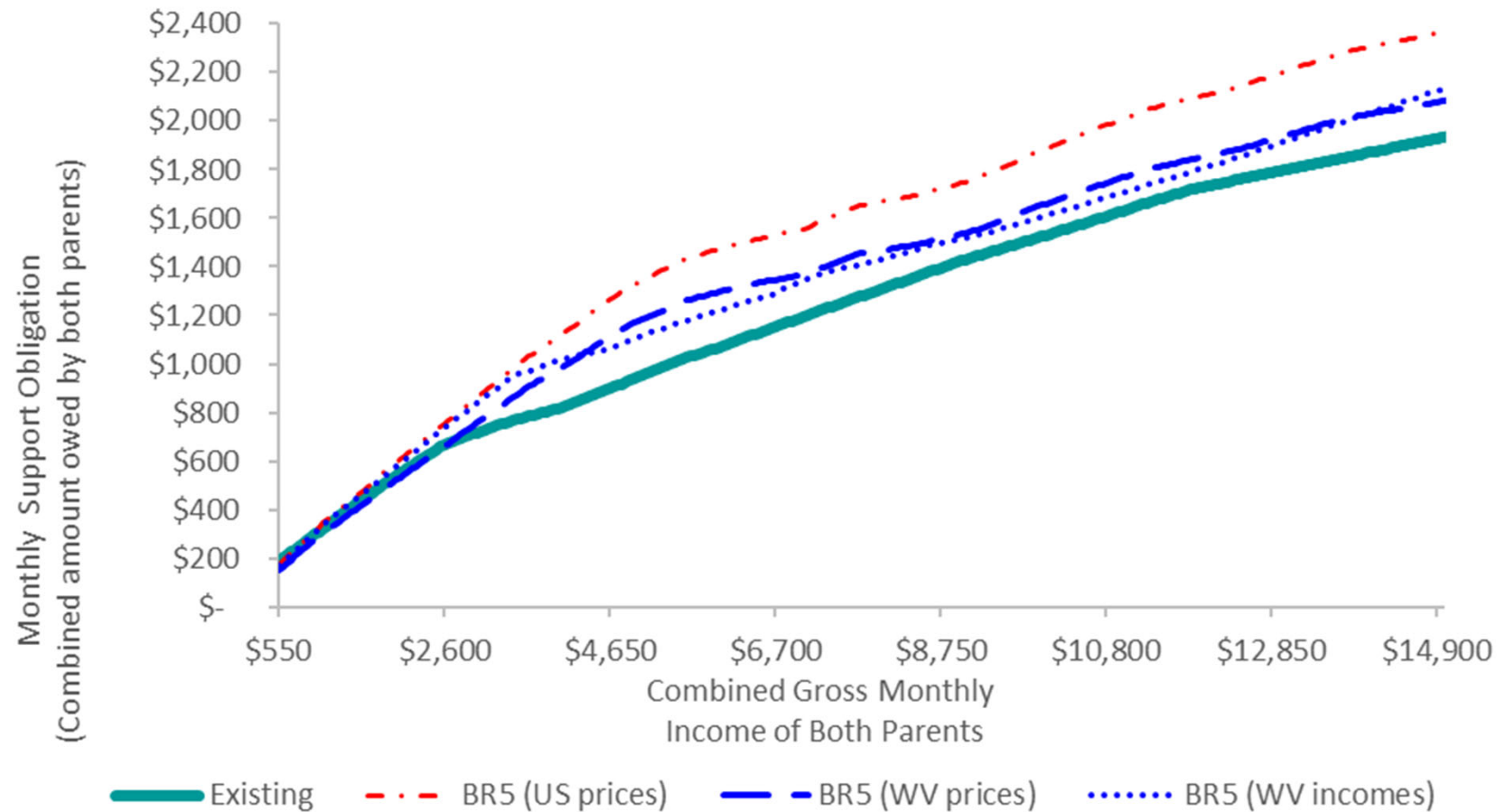


Exhibit 53, p 91

- WV has lower housing costs and lower cost of living (price parity)

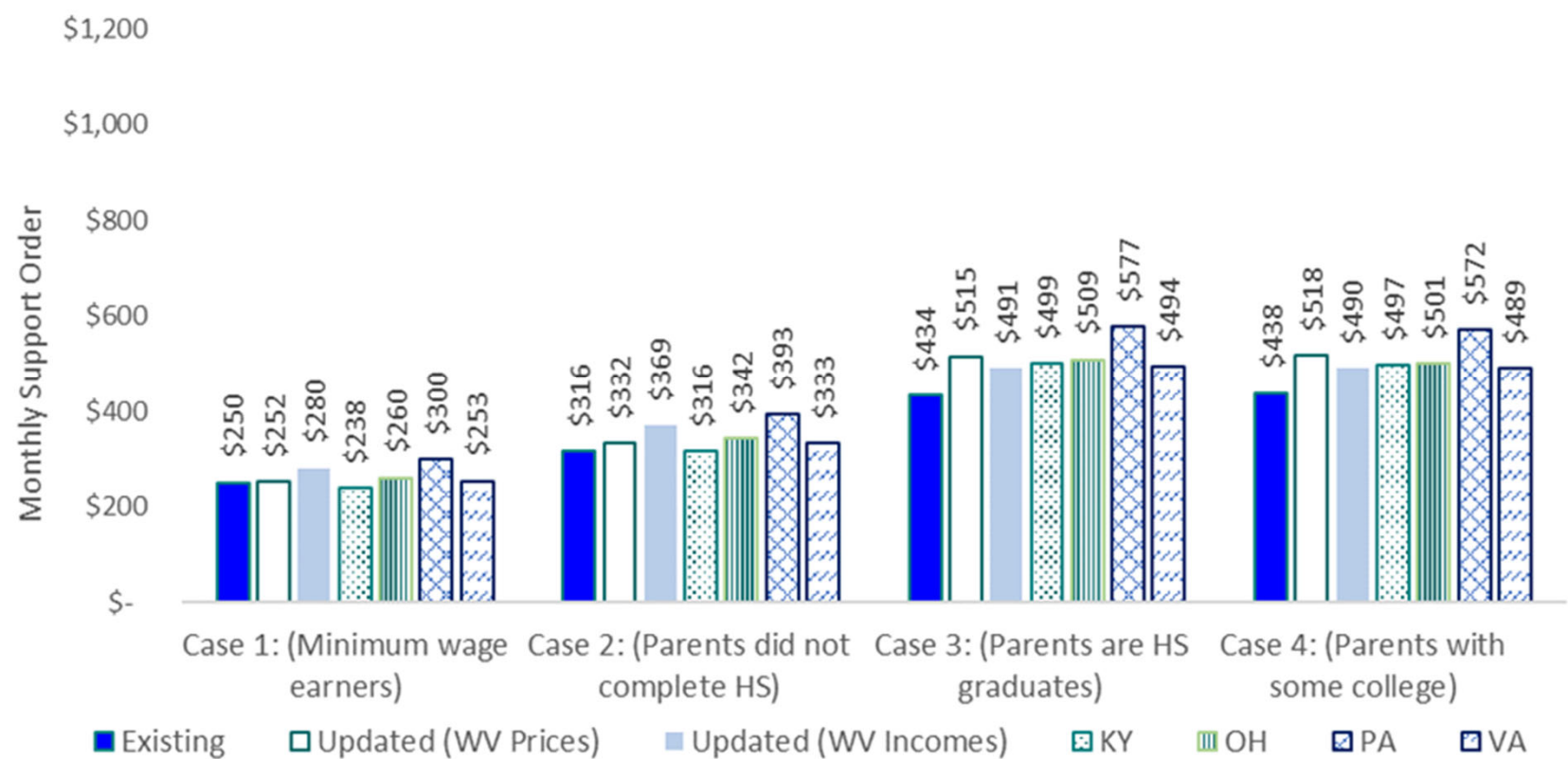
	US	WV	KY	MD	OH	PA	VA
Base of Guideline Income	N.A.	gross	gross	gross	gross	net	gross
Underlying Economic Study	N.A.	BR1	BR4	BR4/USDA ^a	BR4	BR5	BR4
Adjusted for State Income or Prices	N.A.	Yes	Yes	Yes	No	No	No
Year of Price Levels Considered	N.A.	1999	2019	2019	2015	2020	2013
Self-Support Reserve	N.A.	\$500	\$915	\$1,170	\$973	\$1,073	150% FPG
Medical Expenses Included in Table	N.A.	\$250	\$250	\$250	None	\$250	None
2019 Population ^b	328,239,523	1,792,147	4,467,673	6,045,680	11,689,100	12,801,989	8,535,519
2019 Number of Children in State ^b	72,967,785	358,818	1,001,825	1,332,287	2,574,847	2,632,325	1,857,605
2020 IV-D Child Support Caseload ^c	13,203,628	94,763	259,774	179,984	778,0555	333,818	279,266
Percentage of IVD Caseload under Order ^c	87.21	89.86	87.70	89.86	80.01	88.25	85.91
Percentage of Current Support Collected ^c	66.17	69.79	57.83	68.85	76.18	83.01	65.18
2019 Median Income (2 parents) ^b	\$103,978	\$82,161	\$89,790	\$136,795	\$101,782	\$108,305	\$120,528
2019 Median Income (female householder) ^b	\$ 31,035	\$ 22,584	\$ 24,459	\$ 44,127	\$27,226	\$30,665	\$33,909
2019 Median Gross Rent ^b	\$1,097	\$727	\$773	\$1,401	\$813	\$951	\$1,254
2021 Minimum Hourly Wage	\$7.25	\$8.75	\$7.25	\$12.50	\$9.30	\$7.25	\$11.00
Unemployment Rate (Nov. 2021)	4.2%	4.0%	4.1%	5.4%	4.8%	5.7%	3.4%
2020 Price Parity	100.0	88.0	89.8	106.5	91.7	97.6	101.0

WV 2019 Median Earnings for Workers Age 25 and Older (p 89)

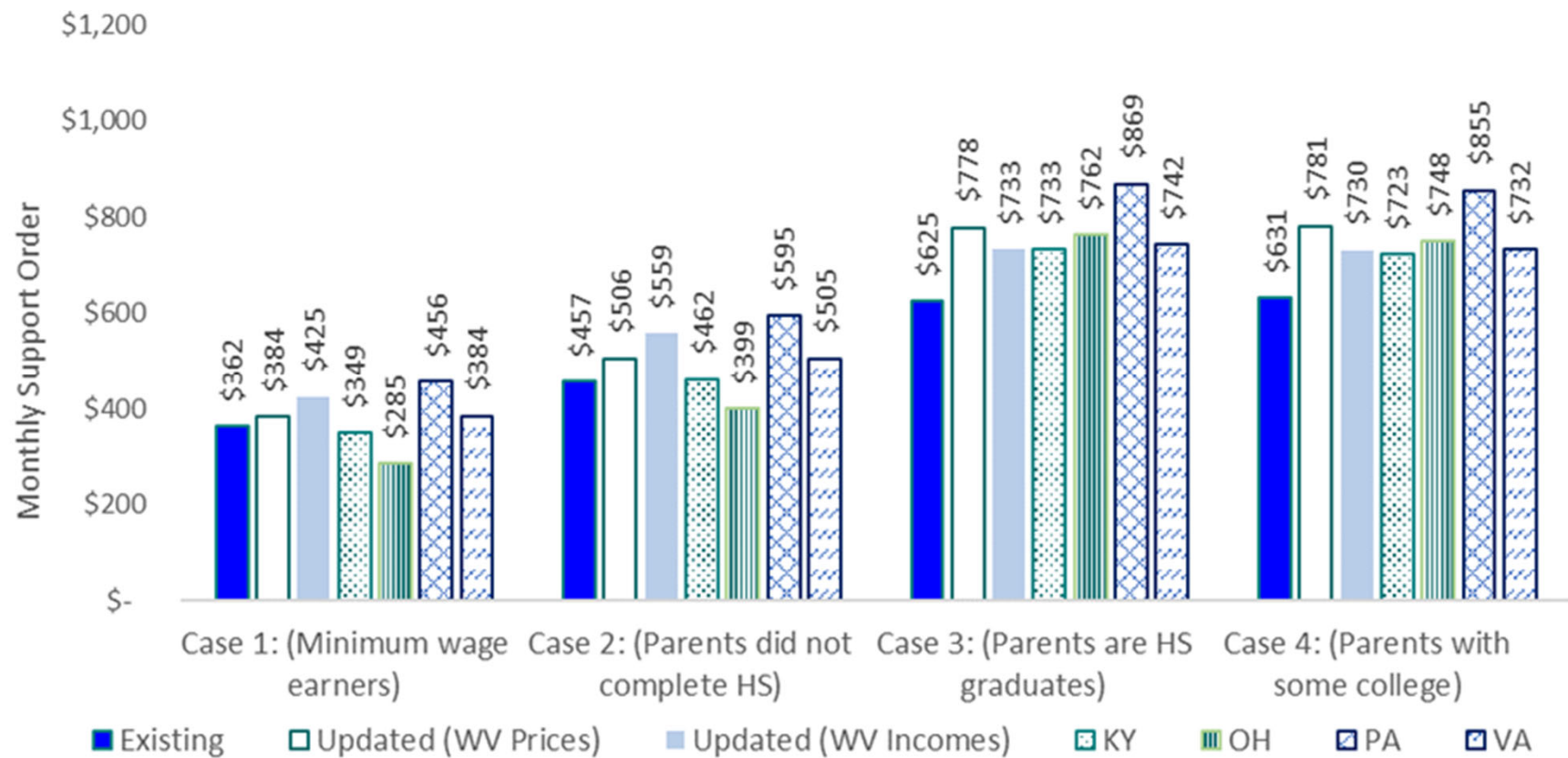
Highest Educational Attainment	Males	Females
1. Each parent earns full-time, minimum wage	\$1,517	\$1,517
2. Parent's earnings are equivalent to median earnings of West Virginia workers with less than a high school education	\$2,014	\$1,321
3. Parent's earnings are equivalent to median earnings of West Virginia workers whose highest educational attainment is a high school degree or GED	\$3,348	\$1,861
4. Parent's earnings are equivalent to median earnings of West Virginia workers whose highest educational attainment is some college or an associate's degree	\$3,485	\$2,233
5. Parent's earnings are equivalent to median earnings of West Virginia workers whose highest educational attainment is a college degree	\$3,832	\$3,374
6. Parent's earnings are equivalent to median earnings of West Virginia workers whose highest educational attainment is graduate degree	\$6,064	\$4,358
7. High income case: combined gross income of \$15,000 per month, parents have equal incomes	\$7,500	\$7,500
8. High income case: combined gross income of \$20,000 per month, obligated parent has more income	\$12,000	\$8,000

Case scenarios: Male is parent owing support, female is parent receiving support, no other adjustment, incomes are approximate after-tax incomes

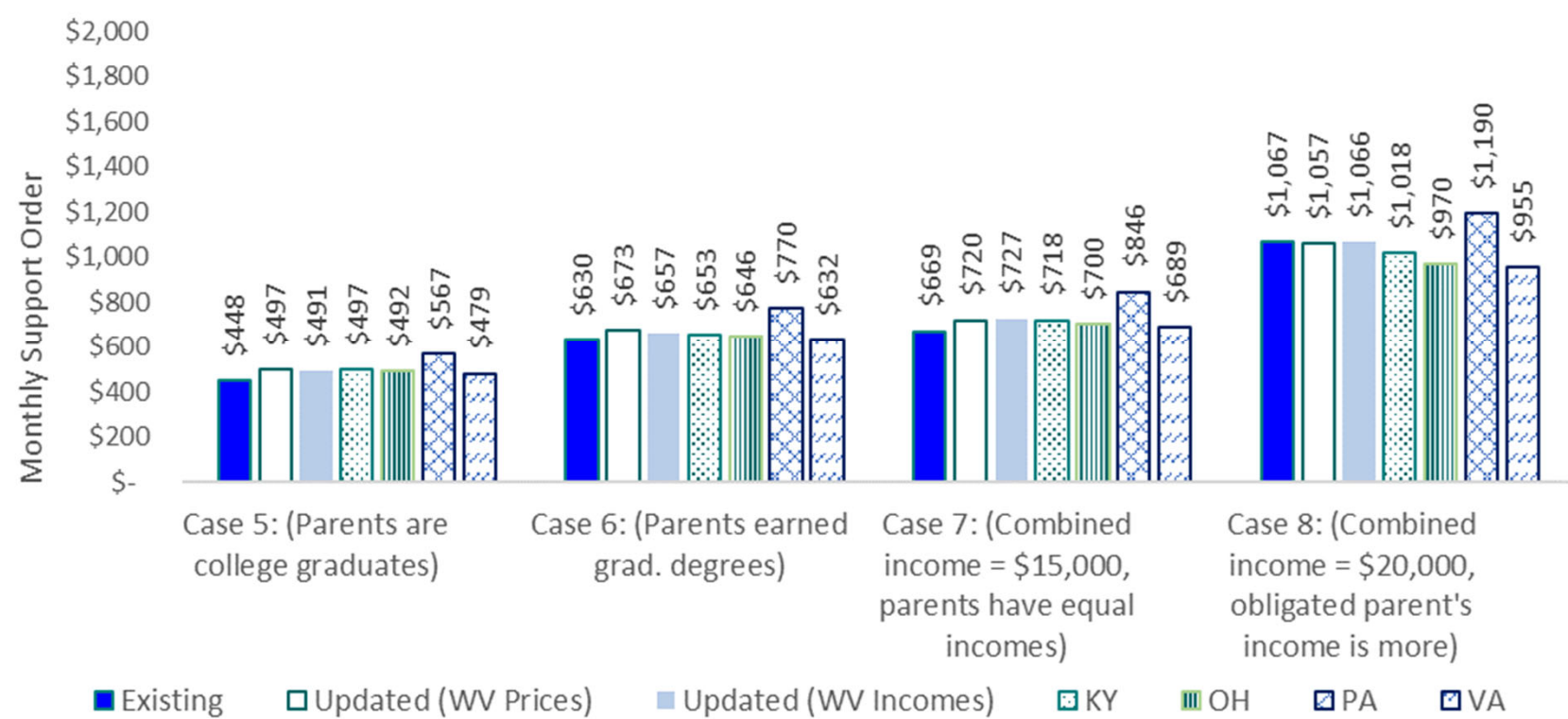
Comparison of Scenarios 1-4 : 1 Child (addendum)



Comparison of Scenarios 1-4 with Neighboring States: 2 Children



Comparison of Scenarios 5-8 with Neighboring States: 1 Child



Federal Requirement: Address Subsistence Needs

Federal Requirement

45 CFR §302.56(c)(1)(ii) Takes into consideration the **basic subsistence needs of the noncustodial parent** (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, **such as a self-support reserve** or some other method determined by the State

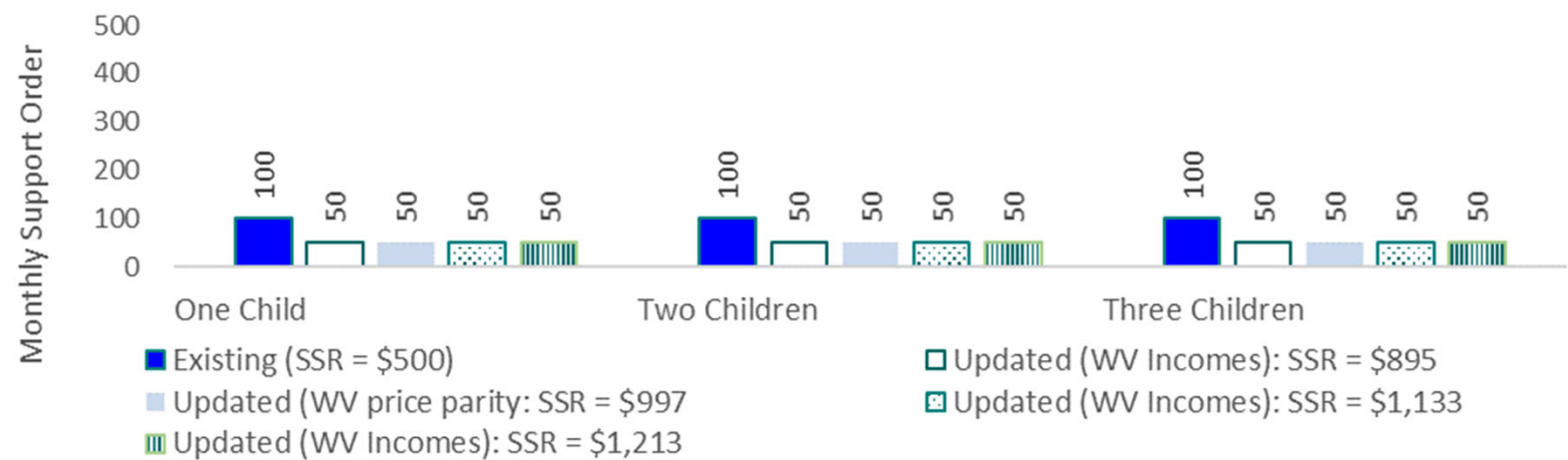
WV Provisions (p 78)

	Mother	Father	Combined
2. MONTHLY ADJUSTED GROSS INCOME	\$	\$	\$
9. RECOMMENDED CHILD SUPPORT ORDER (Subtract Line 8 from Line 7 for the payor parent only. Leave payee parent column blank.)	\$	\$	
PART II. ABILITY TO PAY CALCULATION (Complete if the payor parent's adjusted monthly gross income is below \$1,550.)			
10. Spendable Income (0.80 x Line 2 for payor parent only.)			
11. Self-Support Reserve	\$500	\$500	
12. Income Available for Support (Line 10 – Line 11, If less than \$50, then \$50)			
13. Adjusted Child Support Order (Lessor Line 9 and Line 12.)			

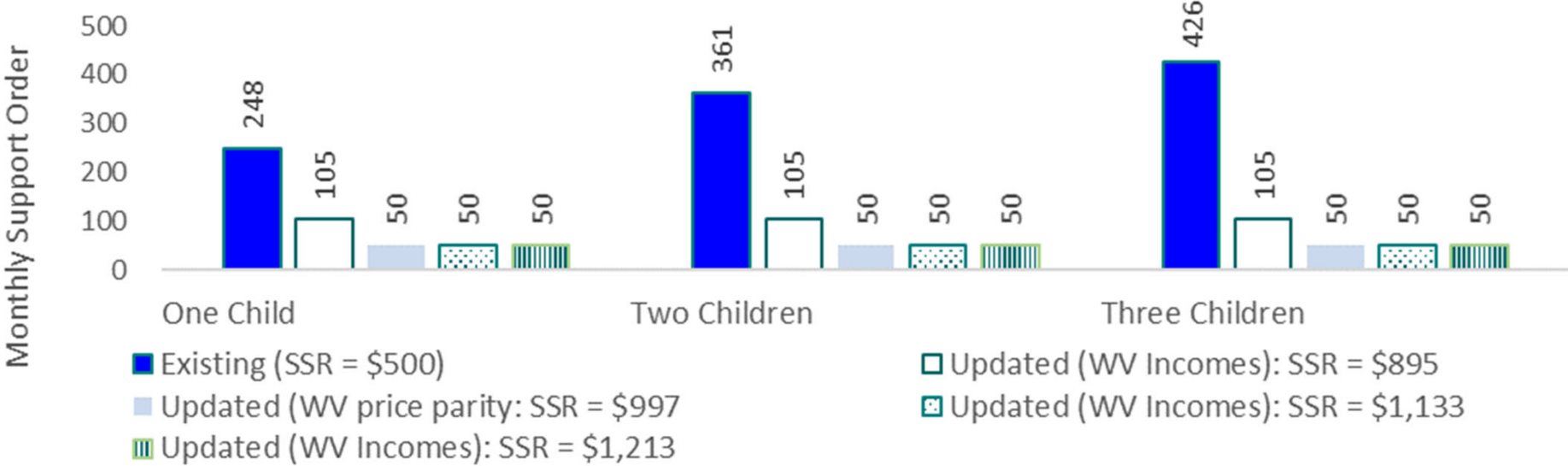
Update Self Support Reserve in Worksheet (addendum, p 7)

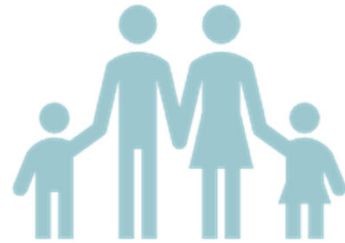
Description	Calculation	SSR Amount (per month)
Existing		\$ 500
Federal poverty guidelines (FPG) for 1 person	2022 FPG = \$1,133	\$1,133
FPG multiplied by West Virginia price parity	\$1,133 multiplied by 88.0%	\$ 997
FPG multiplied by West Virginia’s median family income divided by U.S. median family income	\$1,133 multiplied by (\$82,161 divided by \$103,978)	\$ 895
80 percent of the West Virginia minimum wage	\$8.75 multiplied by 40 hours per week multiplied by 52 weeks per year multiplied by 80 percent	\$1,213

Comparison of Low Income: \$750 (addendum, p 7)



Comparison of Low Income: \$1,500 (addendum, p 8)





Federal Requirements of State Guidelines

WV's Compliance with Federal Requirements of Guidelines

Requirements	WV Complies
Provide one guideline, used statewide	☒
Consider all earnings and income	☒
Be specific and numeric	☒
Provide deviation criteria & finding on record	☒
Consider specific circumstances when imputing income (e.g., literacy, age, criminal record)	☒
Consider other evidence of ability to pay (e.g., verbal testimony, dept. of labor data)	☒
Consider parent's basic subsistence need	☒ update?
Do not treat incarceration as voluntary unemployment	?
Provide for child's healthcare needs	☒ opportunity?

Jan report, Exhibit 47, p 74

Description	Calculation	SSR Amount (per month)
Federal poverty guidelines (FPG) for 1 person	2021 FPG = \$1,073*	\$1,073
FPG multiplied by West Virginia price parity	\$1,073 multiplied by 88.0%	\$ 944
FPG multiplied by West Virginia's median family income divided by U.S. median family income	\$1,073 multiplied by (\$82,161 divided by \$103,978)	\$ 848
80 percent of the West Virginia minimum wage	\$8.75 multiplied by 40 hours per week multiplied by 52 weeks per year multiplied by 80 percent	\$1,213

Federal Requirement: Address Subsistence Needs

Federal Requirement

45 CFR §302.56(c)(1)(ii) Takes into consideration the **basic subsistence needs of the noncustodial parent** (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, **such as a self-support reserve** or some other method determined by the State

WV Provisions (p 78)

	Mother	Father	Combined
2. MONTHLY ADJUSTED GROSS INCOME	\$	\$	\$
9. RECOMMENDED CHILD SUPPORT ORDER (Subtract Line 8 from Line 7 for the payor parent only. Leave payee parent column blank.)	\$	\$	
PART II. ABILITY TO PAY CALCULATION (Complete if the payor parent's adjusted monthly gross income is below \$1,550.)			
10. Spendable Income (0.80 x Line 2 for payor parent only.)			
11. Self-Support Reserve	\$500	\$500	
12. Income Available for Support (Line 10 – Line 11, If less than \$50, then \$50)			
13. Adjusted Child Support Order (Lessor Line 9 and Line 12.)			

Federal Requirement: Income Imputation (Attribution)

Federal Requirement	p. 78
45 C.F.R. §302.56(c)(1)(iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State’s discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent’s assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.	§48-1-205. Attributed income defined. (a) “Attributed income” means income not actually earned by a parent but which may be attributed to the parent because he or she is unemployed, is not working full time or is working below full earning capacity or has nonperforming or underperforming assets. Income may be attributed to a parent if the court evaluates the parent’s earning capacity in the local economy (giving consideration to relevant evidence that pertains to the parent’s work history, qualifications, education and physical or mental condition) and determines that the parent is unemployed, is not working full time or is working below full earning capacity. Income may also be attributed to a parent if the court finds that the obligor has nonperforming or underperforming assets. (b) If an obligor: (1) Voluntarily leaves employment or voluntarily alters his or her pattern of employment so as to be unemployed, underemployed or employed below full earning capacity; (2) is able to work and is available for full-time work for which he or she is fitted by prior training or experience; and (3) is not seeking employment in the manner that a reasonably prudent person in his or her circumstances would do, then an alternative method for the court to determine gross income is to attribute to the person an earning capacity based on his or her previous income. If the obligor’s work history, qualifications, education or physical or mental condition cannot be determined, or if there is an inadequate record of the obligor’s previous income, the court may, as a minimum, base attributed income on full-time employment (at forty hours per week) at the federal minimum wage in effect at the time the support obligation is established. In order for the court to consider attribution of income, it is not necessary for the court to find that the obligor’s termination or alteration of employment was for the purpose of evading a support obligation. (c) Income shall not be attributed to an obligor who is unemployed or underemployed or is otherwise working below full earning capacity if any of the following conditions exist: (1) The parent is providing care required by the children to whom both of the parties owe a legal responsibility for support and such children are of preschool age or are handicapped or otherwise in a situation requiring particular care by the parent; (2) The parent is pursuing a plan of economic self-improvement which will result, within a reasonable time, in an economic benefit to the children to whom the support obligation is owed, including, but not limited to, self-employment or education: Provided, That if the parent is involved in an educational program, the court shall ascertain that the person is making substantial progress toward completion of the program; (3) The parent is, for valid medical reasons, earning an income in an amount less than previously earned; or (4) The court makes a written finding that other circumstances exist which would make the attribution of income inequitable: Provided, That in such case the court may decrease the amount of attributed income to an extent required to remove such inequity. (d) The court may attribute income to a parent’s nonperforming or underperforming assets, other than the parent’s primary residence. Assets may be considered to be nonperforming or underperforming to the extent that they do not produce income at a rate equivalent to the current six-month certificate of deposit rate or such other rate that the court determines is reasonable. §48-13-804. Default orders. (a) In any proceeding in which support is to be established, if a party has been served with proper pleadings and notified of the date, time and place of a hearing before a family court judge and does not enter an appearance or file a response, the family court judge shall prepare a default order for entry establishing the defaulting party’s child support obligation consistent with the child support guidelines contained in this article. (1) When applying the child support guidelines, the court may accept financial information from the other party as accurate, pursuant to rule 13(b) of the Rules of Practice and Procedure for Family Court; or (2) If financial information is not available, the court may attribute income to the party based upon either: (i) The party’s work history; (ii) Minimum wage, if appropriate; or (iii) At a minimum, enter a child support order in a nominal amount unless, in the court’s discretion, a zero support order should be entered. (b) All orders shall provide for automatic withholding from income of the obligor pursuant to part 4, article fourteen of this chapter.

Federal Requirement: Consider Other Evidence of Ability to Pay

Federal Requirement

45 CFR §302.56(c)

The child support guidelines established under paragraph (a) of this section must at a minimum:

- (1) Provide that the child support order is based on the noncustodial parent’s earnings, income, and **other evidence of ability to pay** that:
 - (i) Takes into consideration **all** earnings and income of the noncustodial parent (and at the State’s discretion, the custodial parent);

OCSE’s explanation of the rule change cites PIQ–00–03. Retrieved from: <https://www.acf.hhs.gov/css/resource/state-iv-d-program-flexibility-low-income-obligors>
States may want to take steps to limit the imputation of income, for example, to cases in which the non-custodial parent has apparent assets and/or ability to pay, but is uncooperative. And, most importantly, States should make the maximum use of improved methods of determining income and resources of non-custodial parents, including the State and National Directories of New Hires as well as the Financial Institution Data Match (FIDM) and Multistate Financial Institution Data Match (MSFIDM).

Examples from Other States: All, Actual Income & Other Evidence of Ability to Pay

DC	§303.4 Establishment of support obligations. (b) Use appropriate State statutes, procedures, and legal processes in establishing and modifying support obligations in accordance with §302.56 of this chapter, which must include, at a minimum: (1) Taking reasonable steps to develop a sufficient factual basis for the support obligation, through such means as investigations, case conferencing, interviews with both parties, appear and disclose procedures, parent questionnaires, testimony, and electronic data sources; (2) Gathering information regarding the earnings and income of the noncustodial parent and, when earnings and income information is unavailable or insufficient in a case gathering available information about the specific circumstances of the noncustodial parent, including such factors as those listed under §302.56(c)(1)(iii) of this chapter; (3) Basing the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available. If evidence of earnings and income is unavailable or insufficient to use as the measure of the noncustodial parent’s ability to pay, then the support obligation or recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed in §302.56(c)(1)(iii) of this chapter. (4) Documenting the factual basis for the support obligation or the recommended support obligation in the case record
CO	(c) “Income” means the actual gross income of a parent, if employed to full capacity, or potential income, if unemployed or underemployed. Gross income of each parent shall be determined according to subsection (5) of this section. (III) (C)(c) Income statements of the parents shall be verified with documentation of both current and past earnings. Suitable documentation of current earnings includes pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. A copy of wage statements or other wage information obtained from the computer data base maintained by the department of labor and employment shall be admissible into evidence for purposes of determining income under this subsection (5).
MA	Source of Income For purposes of these guidelines, income is defined as gross income from whatever source, regardless of whether that income is recognized by the Internal Revenue Code or reported to the Internal Revenue Service or state Department of Revenue or other taxing authority. However, income derived from a public assistance program or benefit that is based on the person’s financial circumstances (for example: TAFDC, SNAP, certain veterans’ benefits and supplemental security income (SSI) benefits) shall not be counted as income for either parent. D. Imputation of income When the Court finds that a parent has, in whole or in part, undocumented or unreported income, the Court may reasonably impute income to the parent based on all the evidence submitted, including, but not limited to, evidence of the parent’s ownership and maintenance of assets, and the parent’s lifestyle, expenses and spending patterns.
UT	(b) Each parent shall provide verification of current income. Each parent shall provide year-to-date pay stubs or employer statements and complete copies of tax returns from at least the most recent year unless the court finds the verification is not reasonably available. Verification of income from records maintained by the Department of Workforce Services may be substituted for pay stubs, employer statements, and income tax returns.

Most neighboring states (CT?, ME, NH, NY, VT?) haven’t reviewed their guidelines or implemented changes yet. 43

Federal Requirement: Incarcerated Parents

Federal Requirement	WV Provisions (p 80)
45 CFR §302.56(c) (3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders;	Case law §48-1-230. Income defined. "Income" includes, but is not limited to, the following: (1) Commissions, earnings, salaries, wages and other income due or to be due in the future to an individual from his or her employer and successor employers; (2) Any payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, Social Security, unemployment compensation, supplemental employment benefits, workers' compensation benefits, state lottery winnings and prizes and overtime pay; (3) Any amount of money which is owing to an individual as a debt from an individual, partnership, association, public or private corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state or any other legal entity which is indebted to the obligor; (4) Any amount of money which is held by the Regional Jail Authority for an inmate in an inmate's concession account. §48-13-703. Restructuring of payments upon release of inmate.

Provision complements 45 C.F.R. §303.8 Review and adjustment of child support orders.

(2) The State may elect in its State plan to initiate review of an order, after learning that a noncustodial parent will be incarcerated for more than 180 calendar days, without the need for a specific request and, upon notice to both parents, review, and if appropriate, adjust the order, in accordance with paragraph (b)(1)(i) of this section. * * * * *

Federal Medical Support Change Compared (p. 89)

45 C.F.R. 302.56 (c) (2) Address how the parents will provide for the child's health care needs through private **or public health care coverage** and/or through cash medical support;

45 C.F.R. §303.31 *Securing and enforcing medical support obligations.*

(a) * * * (2) Health ~~insurance-care coverage~~ includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage ~~which is available to either parent,~~ under which medical services could be provided to the dependent child(ren).

(3) Cash medical support or the cost of health insurance is considered reasonable in cost if **the cost to the parent responsible for providing medical support does not** exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations, or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter.

Federal Medical Support Change Compared to RI Adm Rule (2/2)

45 C.F.R. 302.56 (c) (2) Address how the parents will provide for the child's health care needs through private **or public health care coverage** and/or through cash medical support;

45 C.F.R. §303.31 *Securing and enforcing medical support obligations.*

(a) * * * (2) Health insurance-care coverage includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage ~~which is available to either parent,~~ under which medical services could be provided to the dependent child(ren).

RI Adm Rule 12-05: Cash Medical Orders

Any child covered by health insurance through the parent's or parents' place of employment at the time the child support order is being established shall continue to be covered by said insurance. If the child is not currently covered by health insurance through the parent's or parents' place of employment, the parent or parents shall be required to obtain said insurance ... Health insurance coverage shall be deemed "accessible" if the child or children who are the subject of the order live within the geographical area covered by the plan. ... "Reasonable cost" shall be defined as being five percent (5%) or less of the gross income of the parent. ... In the event that the Court determines that the health insurance is "not accessible" or the Court determines that the cost to obtain health insurance for the child is "not reasonable", the obligor shall be required to make a five percent (5%) medical cash contribution in addition to the basic order of child support...

If the child is on Rite Care, Rite Share, or its equivalent, the expectation is the State of Rhode Island will retain the medical cash contribution... If the child is covered under private insurance provided to the custodial parent through his/her place of employment (at a cost to the custodial parent), the expectation is that the custodial parent will retain the medical cash contribution up to his/her actual cost....)



Next Steps

Section 6:

Considerations for Commission

1. Update the table
 - a. Update using income differences or price parity
2. Update the self-support reserve in worksheet
3. Make changes to comply with expanded federal rules
 - A. 14 factors to consider when imputing income
 - B. Prohibit treatment of incarceration as vol

- Timelines