
Helping Hands
Bridging Bright
Futures for Families
ERICSA
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Bridging Our Way towards Sustainable Child Support Orders

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Description: Come learn (a little) history on how child support guidelines got started and the bridges we have built to continue calculations today. This session will include a discussion among panelists, not just on case examples, but on the reasons and pros/cons involved with different calculation methods and factors included that make state guidelines unique. Attendees will leave with a deeper understanding of what goes in to state guidelines, whether uniformity can or should be achieved, and specific considerations that make state guidelines distinct.

ROADMAP

Guidelines history

- Pre fed
- Post mid 1980s
- State vs federal/national guideline

Overview of national landscape

- Income shares, and core concepts
  - Parenting time component
  - Medical

Unique considerations for today’s family

- Low-income adjustments / Self support
- Imputation and amounts used
  - Working wage
- Parenting time
- Medical/Childcare
- Engaging with parents

Guidelines History

- **1987**: Federal regulation requires statewide advisory guidelines
  - Prior states guidelines (if any) typically equal to AFDC benefit (TANF predecessor)
  - Provide consistency in orders
  - Close poverty gap
  - Reduce burden on courts
- **1989**: Federal regulation requires rebuttal, presumptive guidelines and 4-year review of guidelines
- **2016**: Federal regulation added:
  - Various requirements targeting low-income parents
  - Data requirements during guidelines reviews
  - Review requirements to involve IV-D and provide opportunities for input from parents, particularly low-income parents

Major Federal Requirements of Guidelines

- Apply to all (IV-D and non-IV-D; new and modified)
- Be computable (sum-certain amount)
- State-determined deviation criteria that consider
  - Unjust or inappropriate
  - The best interests of the child
- Address the healthcare needs of the child
- Amount be based on NCP income and other evidence of ability to pay*
- Consider the basic subsistence needs of the NCP*
- When income imputation is authorized, consider specific circumstances of NCP*
- Prohibit treating incarceration as voluntary unemployment

*States have discretion to consider for the CP also

Major Federal Requirements of Guidelines Reviews

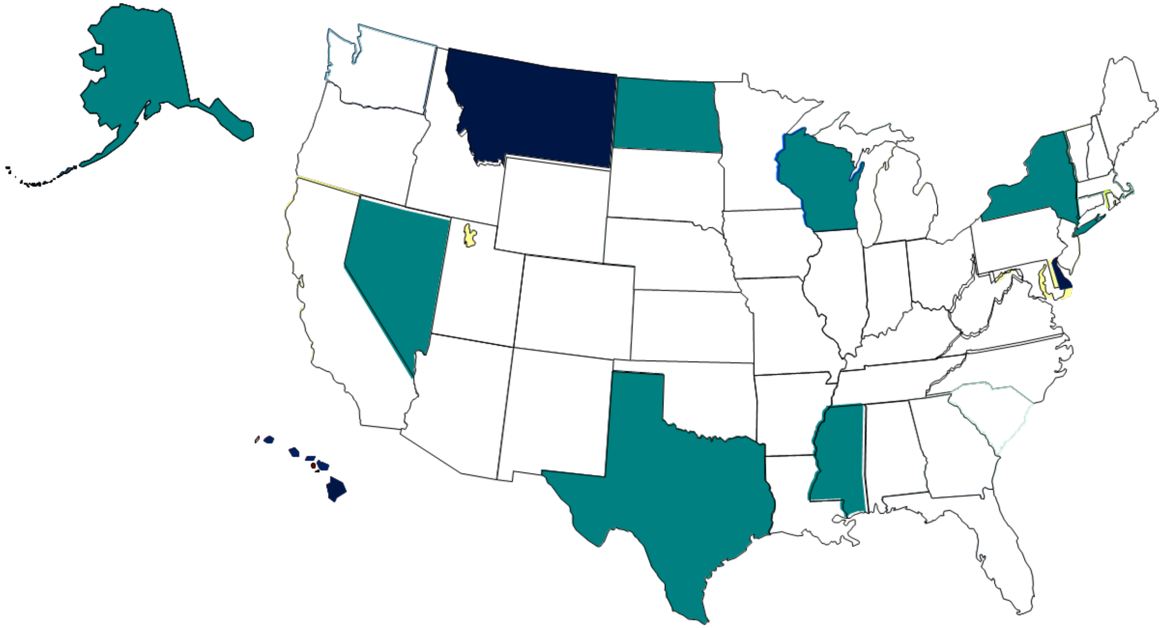
- At least once every four years
- Analyze economic data on the cost of raising children
- Analyze case data on:
  - Guidelines deviations to keep them at a minimum
  - Defaults
  - Income imputation
  - Application of low-income adjustment
  - Payments
- Publish report and review body on Internet
- Obtain input from IV-D
- Provide opportunity for input from parents, particularly low-income parents

Overview of State Guidelines

- 44 states and District of Columbia consider <u>both</u> parents incomes

- 41 states rely on income shares model
  - Amounts vary based on
    - Underlying data source
    - Age of data
    - Adjustments for state's below/average income
    - State tax rates
    - Other reasons

- All states consider the subsistence needs of the NCP



Income shares
Melson formula
Percentage of obligor income

Federal Requirement to Consider the Subsistence Needs of the NCP

Intended to produce orders that will be paid in full and regularly

Intended to be used with “evidence-based income” or “evidence-based imputed income” that the parent can realistically earn

Most states rely on a self-support reserve (SSR) test

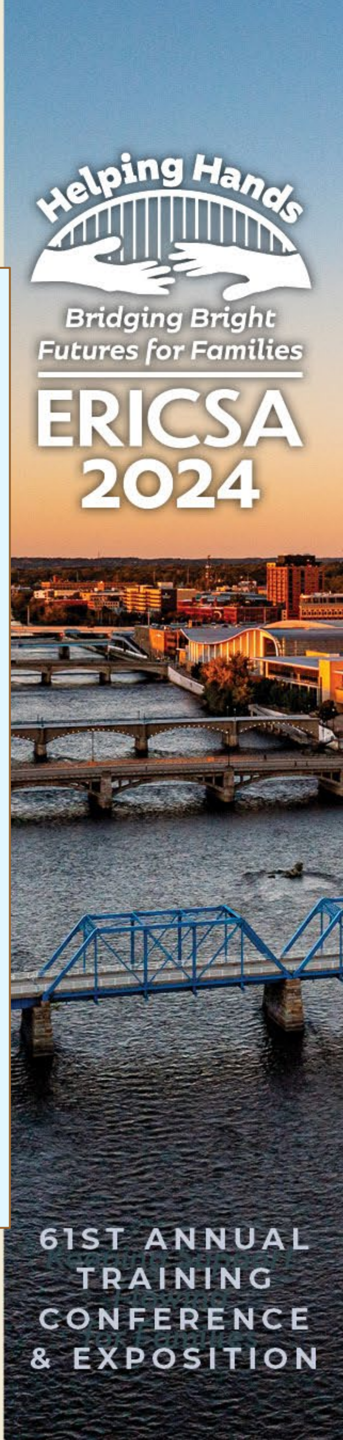
- SSR range from about 80%-150% federal poverty guidelines for 1 person ($1,255/month in 2024)
- A few states have discretionary adjustments
- States phase-out the adjustment at different incomes

Where Is There Some Flexibility?

- Amount of income imputed
- Inclusion of CP income can lower the guidelines amount in some states
- Inclusion/imputation of childcare expenses
- Inclusion of cash medical support

45 CFR 302.56(c)(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…



Michigan Multiple Tiered Grid

Effective 4/9/2024, the payer shall pay a monthly child support obligation for the children named above.

Children supported:	1 child	2 children	3 children	4 children	5 or more children
Base Support: (includes support plus or minus premium adjustment for health-care insurance)					
Support:	$ 90.00	$ 150.00	$	$	$
Premium adjust:	$	$	$	$	$
Subtotal:	$ 90.00	$ 150.00	$ 0.00	$ 0.00	$ 0.00
Ordinary medical:	$ 22.70	$ 45.40	$	$	$
Child care:	$ 150.00	$ 300.00	$	$	$
Other:	$	$	$	$	$
Benefit credit:	$	$	$	$	$
Total:	$ 262.70	$ 495.40	$ 0.00	$ 0.00	$ 0.00

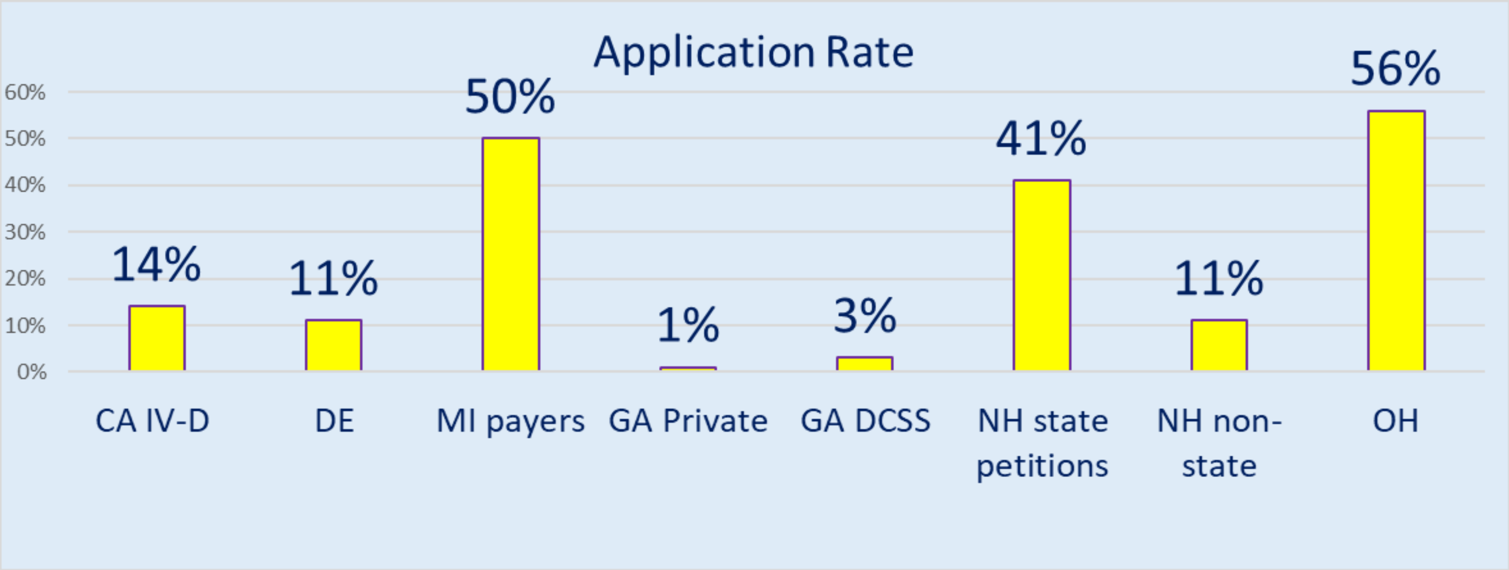
Effective while Payer receives UIA, the payer shall pay a monthly child support obligation for the children named above.

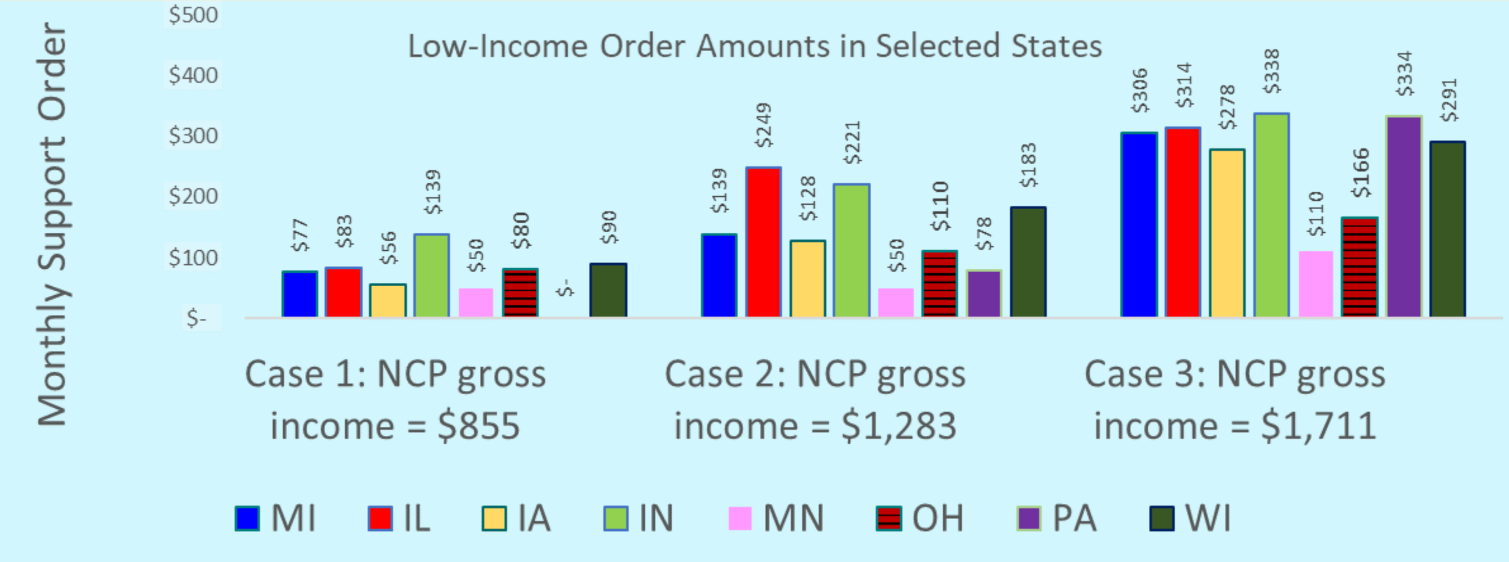
Children supported:	1 child	2 children	3 children	4 children	5 or more children
Base Support: (includes support plus or minus premium adjustment for health-care insurance)					
Support:	$ 45.00	$ 75.00	$	$	$
Premium adjust:	$	$	$	$	$
Subtotal:	$ 45.00	$ 75.00	$ 0.00	$ 0.00	$ 0.00
Ordinary medical:	$ 22.70	$ 45.40	$	$	$
Child care:	$ 150.00	$ 300.00	$	$	$
Other:	$	$	$	$	$
Benefit credit:	$	$	$	$	$
Total:	$ 217.70	$ 420.40	$ 0.00	$ 0.00	$ 0.00

"Effective _____" can be based on a date or a known future condition

Select Findings about Low-Income Adjustments

- Will the application of the low-income adjustment become the new normal as states refine their low-income adjustments?
- The application rate varies by highest income to which adjustment applies and the extent that income is imputed above where the adjustment applies.
- The low-income guidelines amounts vary by state
- Payment outcomes generally are not better when low-income adjustment is applied





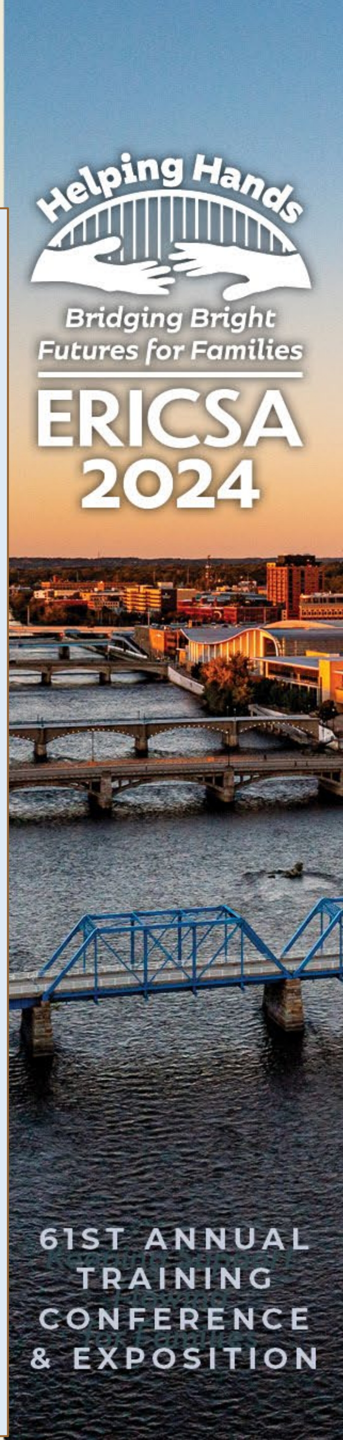
Federal Requirements about Income

#1: Consider "all earnings and income" and "other evidence of ability to pay"

#2: Federal requirement to consider the specific circumstances of the NCP when income imputation authorized

- Aimed at evidence-based income imputation rather than "overuse" of full-time minimum wage earnings
- State practices vary:
  - Recent history of work (which may be sketchy), lack of work (e.g., temporary disability or another barrier)
  - Recognizing inconsistent hours per week and work isn't always year round
  - Ability to earn/incapacitation/collectable

45 CFR 302.56(c)(iii) **I**f 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.



Colorado

COLORADO
Department of Human Services

If a parent is *voluntarily* unemployed or underemployed, child support shall be calculated based on a determination of *potential income, which* is the amount of money a parent *could reasonably earn*

When Not To Impute

- Physically or mentally incapacitated
- Caring for a joint child under 24 months, or older if disabled
- Good faith career choice (change in employment intended to later result in higher income/child benefit)
- Incarcerated for 180 days or more
- Educational program reasonably expected to result in degree and higher income

Colorado

COLORADO
Department of Human Services

The 16 Factors to Consider when Imputing Income
(which are the same as in the federal regulation except #15)

1. Parent's assets
2. Residence
3. Employment & Earnings History
4. Job Skills
5. Educational Attainment
6. Literacy
7. Age
8. Health
9. Criminal Record
10. Other employment barriers
11. Record of seeking work
12. Local job market
13. Availability of employers hiring
14. Earning level in local economy
15. Transportation Unique to Colorado
16. Other relevant information

When there is <u>no</u> work history information:

- Impute minimum wage
- 32 hours a week
- 50 weeks a year

Michigan – MCSF 2.01(G)

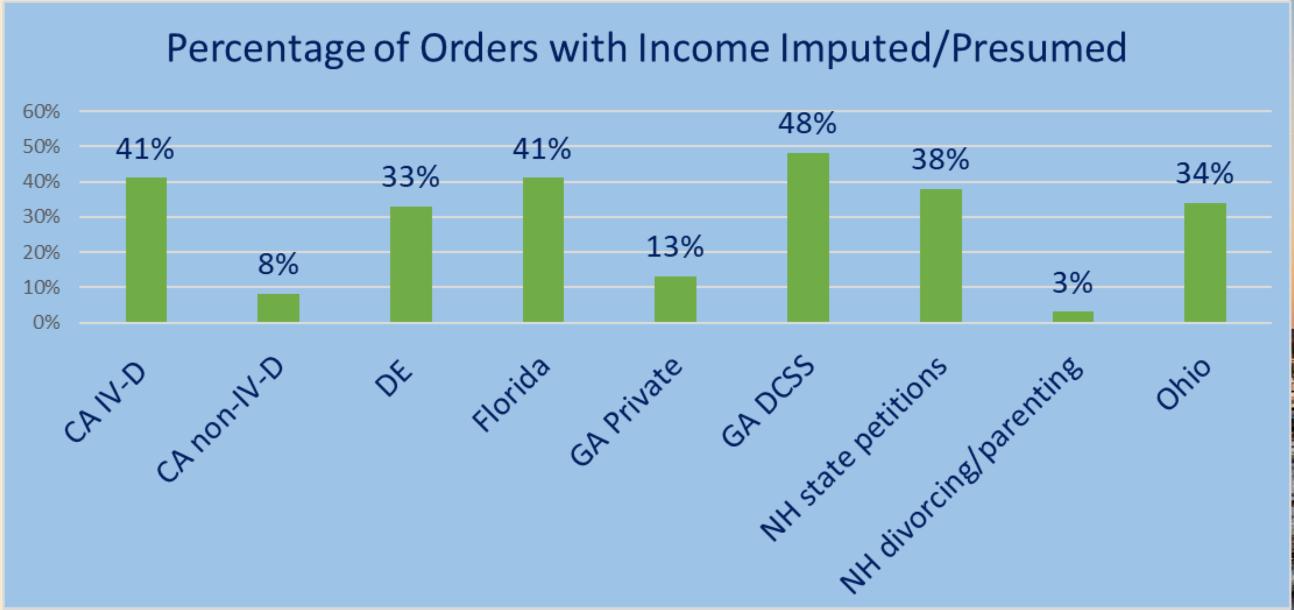
- General Rule: When a parent is voluntarily unemployed or underemployed, or has an unexercised ability to earn, income includes the potential income that parent could earn, subject to that parent’s actual ability. Generally, do not consider incarceration as voluntary unemployment.
  - Can consider costs associated with imputed work
- Warnings:
  - Inferring based on generalized assumptions that parents should be earning a standardized calculation, rather than actual ability and likelihood
  - Assuming an individual has an unexercised ability to earn
  - Failing to work through the factors

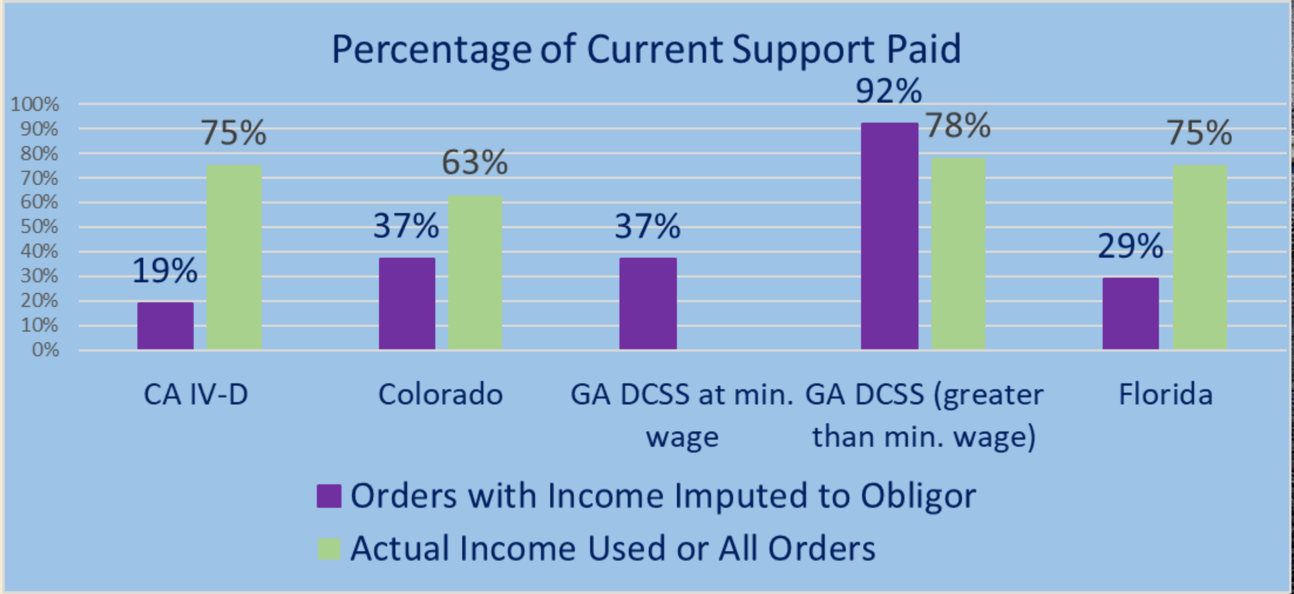
Ohio

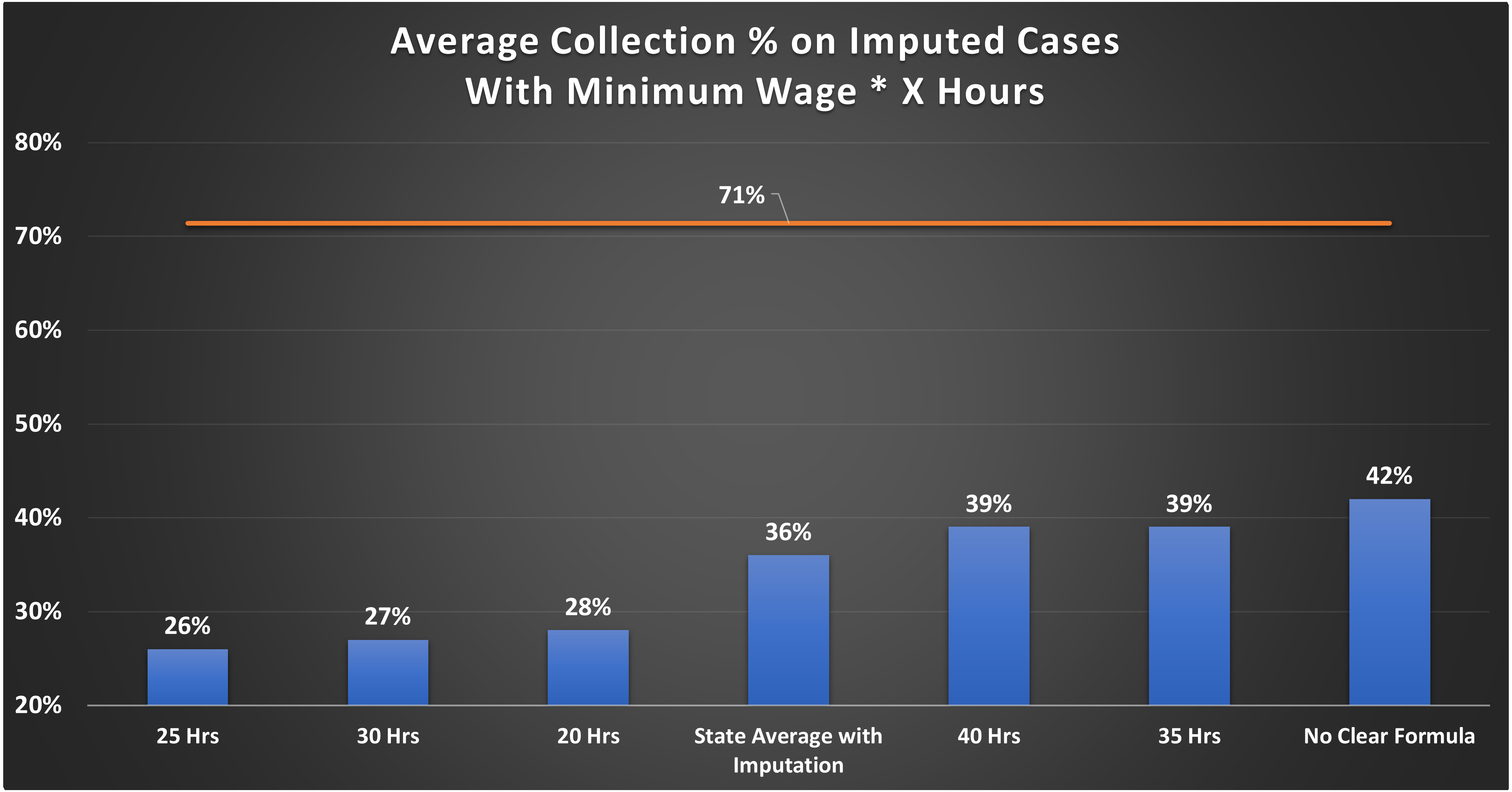
- General Rule: Must find party to be voluntarily unemployed or underemployed
- 3119.01(C)(17)(a) - 11 Factors to consider when imputing
- Imputation is prohibited when the party is incarcerated
- Imputation is discouraged when:
  - Receipt of means-tested public assistance or VA benefits, or SSI
  - Mental or physical disability that prevents from working
  - Proven record of continuous and diligent efforts without success (including employment at less than prior salary/wage)
  - Compliance with court-ordered family reunification efforts, which limits ability to earn
  - Institutionalized for 12+ months with no other available income or assets
- Reasonable assumptions when imputing
  - Permits the CSEA to make reasonable assumptions regarding the information the parent failed to provide and proceed with the determination of support in the same manner as if all requested information had been provided.

Selected Findings about Income Imputation

- Income imputation more common in IV-D cases
- % of current support paid lower when income imputed (except at higher incomes)







Average Collection % on Imputed Cases
With Minimum Wage * X Hours
80%
70%
60%
50%
40%
30%
20%
71%
26%
27%
28%
36%
39%
39%
42%
25 Hrs
30 Hrs
20 Hrs
State Average with Imputation
40 Hrs
35 Hrs
No Clear Formula

Michigan's Incapacitated Provision and Pennsylvania's Use of "Non-Financial Orders"

MICHIGAN

- To modify an order, usually need to use the review and modification approach.
- However, we can carry out the terms of the order when there is **prospective** language
- 4.02(A) "Incapacitated" means the inability to pay the ordered support obligation caused by a parent being temporarily or permanently unable to earn an income for a period that will likely last 180 days or longer and that is due to disability, mental incompetency, serious injury, debilitation illness, or incarceration… At its onset, the exact duration and full impact of incapacitating condition will often be uncertain.
  - The court may exercise discretion and grant relief when the actual duration is less than 180 days.
- 4.02.(D) It may take one or more years before….When there is uncertainty regarding a future outcome… the court may defer a final decision and preserve flexibility ….following notice….

PENNSYLVANIA

- Pa. R.C.P. 1910.19(f) authorizes the modification or termination of a charging order if the order is no longer able to be enforced under state law, or the obligor is unable to pay, has no known income or assets, and there is no reasonable prospect that the obligor will be able to pay in the foreseeable future.

Consideration of Parenting-Time in State Child Support Guidelines

Timesharing and payments are highly correlated

No federal requirement to provide timesharing adjustments

43 states provide some sort of adjustment

- Most states require court-ordered timesharing or agreed-to-time sharing for the adjustment to apply

IV-D funding does not allow timesharing orders to be entered except when a child support order is being entered and only if adding the timesharing order is de minimis

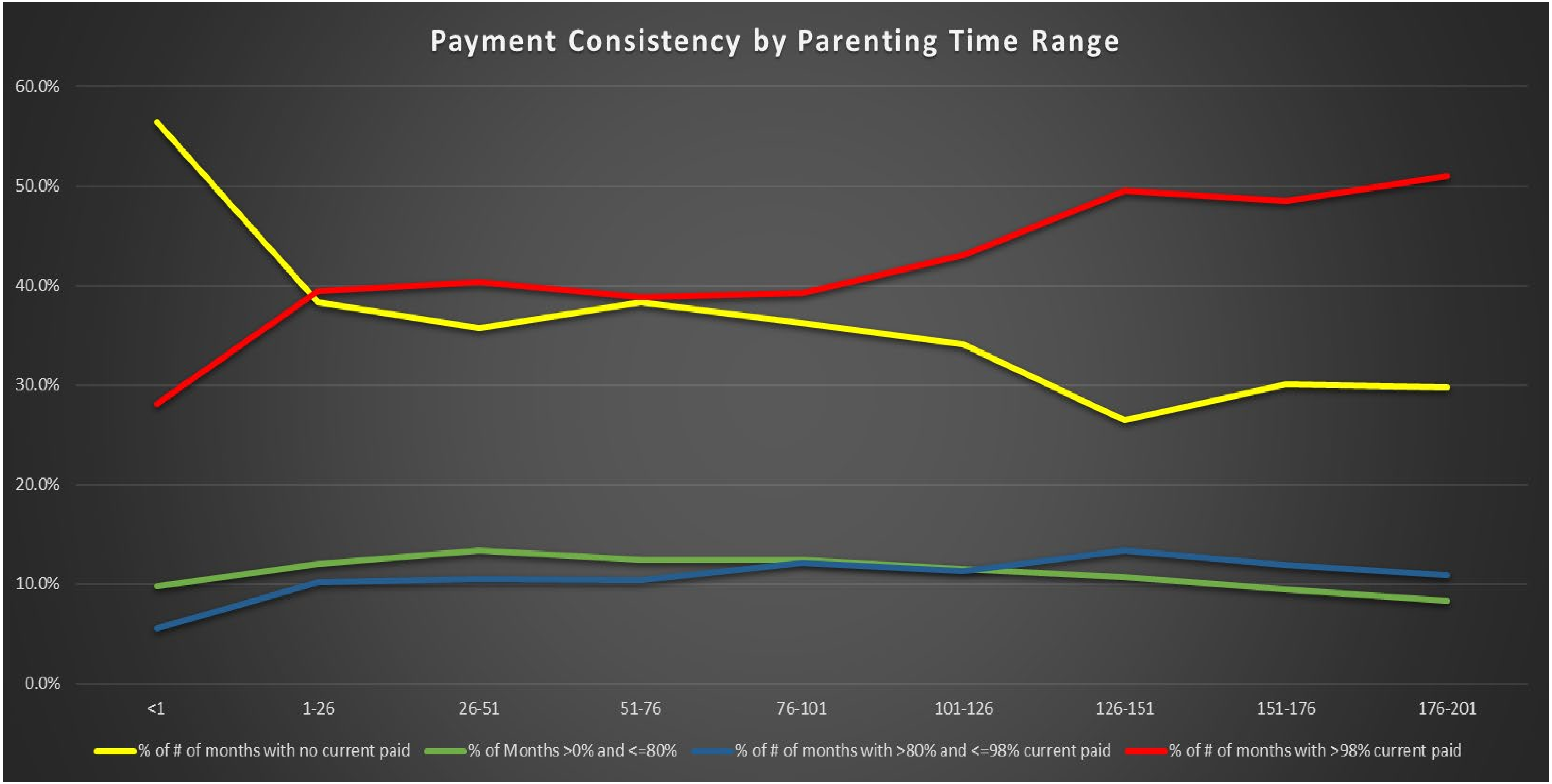
Examples of State Criteria for Applying Timesharing Adjustments

ARIZONA

- To adjust for the costs of parenting time, first determine the total annual amount of parenting time indicated in a court order, a parenting plan, by the parents' expectation, or by historical practice.

MICHIGAN

- 3.03(C) Apply the parental time offset to adjust a base support obligation whenever the **approximate annual number of overnights that each parent will likely provide care** for the children-in-common can be determined. When possible, determine the **approximate number based on past practice**.
  - Look to prior support order overnights, or if no past practice or order, the current custody or parenting time order
- 3.03(E)… every child support order must indicate whether it includes a parental time offset and the number of overnights used in its calculation


Payment Consistency by Parenting Time Range
60.0%
50.0%
40.0%
30.0%
20.0%
10.0%
0.0%
<1
1-26
26-51
51-76
76-101
101-126
126-151
151-176
176-201
% of # of months with no current paid
% of Months >0% and <=80%
% of # of months with >80% and <=98% current paid
% of # of months with >98% current paid

Recap and Takeaways

- Engaging With Parents
- Focusing on what is important to families
- Being Flexible and Responsive

Questions and Contact Info

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