

NH Supreme Court
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THE STATE OF NEW HAMPSHIRE

SUPREME COURT

2017 TERM

JUNE SESSION

Case No: 2017-0133

In the Matter of Wendy S. White and Michael L. White

Discretionary Appeal Pursuant to Supreme Court Rule 7

Appeal from a decision of the

10th Circuit-Family Division-Brentwood

BRIEF OF PETITIONER/APPELLANT

Wendy S. White

Keri J. Marshall, Esquire
NH Bar # 4092
On the brief

Sharon J. Rondeau, Esquire
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On oral argument

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§ 461-A:14. Support.

New Hampshire Statutes

Title 43. DOMESTIC RELATIONS

Chapter 461-A. PARENTAL RIGHTS AND RESPONSIBILITIES

Current through Chapter 53 of the 2017 Legislative Session

§ 461-A:14. Support

- I. After the filing of a petition for divorce, annulment, separation, paternity, support, or allocation of parental rights and responsibilities, including petitions filed by the department of health and human services pursuant to RSA 161-B, 161-C, and 546-B, the court shall make such further decree in relation to the support and education of the children as shall be most conducive to their benefit and may order a reasonable provision for their support and education for the period of time specified in paragraphs IV, V, and XVI.
- II. In any proceeding concerning the support of children:
 - (a) The parties shall certify in the initial pleading filed with the court whether or not public assistance is or was paid for the benefit of the children pursuant to RSA 167 and whether or not medical assistance is being provided for the benefit of the children pursuant to RSA 167. If public assistance is or was being provided or if medical assistance is being provided, the initiating party shall provide the department of health and human services, office of child support enforcement services, with copies of any and all pleadings related to medical and child support.
 - (b) If, during the pendency of the action, the children become the beneficiaries of public or medical assistance, both parties shall notify the court of the public or medical assistance status of the children and shall provide the department of health and human services with copies of all pleadings related to medical and child support.
 - (c) When notified that public or medical assistance is being provided for the benefit of the children, the court shall provide the office of child support with a copy of any hearing notice pertaining to any medical or child support proceeding.
 - (d) The department shall be granted leave to reopen any case to modify, clarify, or vacate any order that was entered against its interest when an assignment of rights pursuant to RSA 161 or RSA 167 is or was in effect and the department was not given notice of the proceeding.
 - (e) In any case to establish, modify, or enforce an order of support where the obligor is

unable to meet child support obligations for any reason, except as provided in RSA461-A:14, XIII(a) and (b), the court may order the obligor to apply for and, if qualified, participate in food stamp and Medicaid programs, federal disability programs, and all applicable department of employment security programs to enable or enhance the obligor's ability to meet his or her support obligations. When making such orders, the court shall include the requirement that the obligor report to the court his or her compliance with the order.

- III. All support orders shall provide for the assignment of the wages of the responsible parent pursuant to RSA 458-B, subject to the exceptions listed in RSA 458-B:2.
- IV. The amount of a child support obligation shall remain as stated in the order until the dependent child for whom support is ordered completes his or her high school education or reaches the age of 18 years, whichever is later, or marries, or becomes a member of the armed services, at which time the child support obligation, including all educational support obligations, terminates without further legal action. If the parties have a child with disabilities, the court may initiate or continue the child support obligation after the child reaches the age of 18. No child support order for a child with disabilities which becomes effective after July 9, 2013 may continue after the child reaches age 21.
 - IV-a. If the order establishes a support obligation for more than one child, and if the court can determine that within the next 3 years support will terminate for one of the children as provided in paragraph IV, the amount of the new child support obligation for the remaining children may be stated in the order and shall take effect on the date or event specified without further legal action. Termination of support for any one of the children under paragraph IV is a substantial change of circumstances for purposes of modification of the child support order under RSA 458-C:7.
- V. No child support order shall require a parent to contribute to an adult child's college expenses or other educational expenses beyond the completion of high school, except as provided in RSA 461-A:21.
- VI. All support payments ordered or administered by the court under this chapter shall be deemed judgments when due and payable. Such judgments shall be given full faith and credit by all jurisdictions of this state.
- VII. Liens shall arise by operation of law against real and personal property for child support arrearages owed by an obligor who resides or owns property in the state and shall incorporate any unpaid child support which may accrue in the future. Full faith and credit shall be given to such liens arising in another state when the state agency, a party, or other entity authorized to enforce an order of support and seeking to perfect the lien complies with the procedural rules relating to recording or serving liens. Notwithstanding any law to the contrary, such rules may not require judicial notice prior to perfecting the lien. Notices of such liens, and any discharges or releases thereof, shall be filed in the

office of the secretary of state with respect to personal property and in the registry of deeds for the county in which any real property is located. No fees shall be charged for such filings and recordings.

- VIII. No modification of a support order shall alter any arrearages due prior to the date of filing the motion for modification.
- IX. (a) Each child support order shall include the court's determination and findings relative to health insurance and the payment of uninsured medical expenses for the child.
- (b) The court shall determine whether private health insurance is accessible and is available to either parent at a cost that is at or below the reasonable medical support obligation amount, as established and ordered pursuant to RSA 458-C:3, V, or is available by combining the reasonable medical support obligations of both parents, and, if so available, the court shall order the parent, or parents, to provide such insurance for the child. The cost of providing private health insurance is the cost of adding the child to existing coverage, or the difference between individual and family coverage. Accessible health insurance means the primary care services are located within 50 miles or one hour from the child's primary residence.
- (c) If the court determines that private health insurance is not accessible or available at a cost that is at or below the reasonable medical support obligation amount, the court shall establish a cash medical support obligation for either or both parents, equal to the reasonable medical support obligation amount, and order that either or both parents shall obtain such private health insurance if it subsequently becomes accessible and available at a cost that is at or below the reasonable medical support obligation amount. When ordered in lieu of private health insurance, an obligation for cash medical support shall be suspended and shall not accrue during such time as the obligated parent is providing private health insurance in accordance with this paragraph.
- (d) In all cases where support is payable through the department, or where the department is providing medical assistance for the child under RSA 167, the court shall include the medical support obligation in any order issued on or after the effective date of this paragraph.
- (e) A court may order either or both parents to pay a medical support obligation, either to provide health insurance coverage or as cash medical support, in excess of the reasonable medical support obligation amount, in such other circumstances, as the court deems appropriate.
- X. If both parents have coverage which provides medical insurance benefits for the child, the insurance of the person who is obligated by court order to provide medical insurance shall

be the primary coverage for the child. This paragraph shall not affect the obligation of the insurance carrier of the parent who is not obligated to provide medical insurance for the child to provide medical insurance benefits for any claim under a policy held by such parent.

- XI. All support orders issued or modified in cases that are payable through the department shall contain a provision requiring the obligor to keep the department informed of the name and address of the obligor's employer and whether the obligor has access to health insurance, and, if so, the health insurance policy information as requested by the department.
- XII. In any proceeding to enforce the payment of child support, the posting of bail shall be for the purpose of securing the appearance of the child support obligor and to guarantee the child support judgment owed by the child support obligor. If a child support obligor defaults for failure to appear or owes a child support arrearage, any bail money posted by the obligor, or any other surety, which is on deposit with the court shall be forfeited and paid to the obligee or the agency enforcing the order for child support in satisfaction of the child support judgment.
- XIII.
 - (a) An order of support, for which there is in effect an assignment to the department of health and human services pursuant to RSA 161-C:22, shall be suspended and shall not accrue, and no public assistance debt shall be incurred, during such time as the responsible parent receives benefits pursuant to Title XVI of the Social Security Act under the supplemental security income program or public assistance pursuant to RSA 167 under any of the following programs:
 - (1) Aid to the permanently and totally disabled.
 - (2) Aid to the needy blind.
 - (3) Aid to families with dependent children.
 - (4) Old age assistance.
 - (b) The department shall not enforce any order of support against the responsible parent while that parent receives public assistance through any of the programs listed in subparagraph (a), whether or not an assignment of support rights to the department exists.
- XIV. When the court makes a temporary or final order for support through the department of health and human services, the order shall require the parties to furnish their social security numbers to the department.
- XV. The court shall have jurisdiction to make such orders or temporary orders of support to the children of divorced parents as justice shall require in cases where the decree of divorce was not granted in this jurisdiction, even though the divorce decree makes provision for

support, subject to the provisions of RSA 546-B.

XVI. The court may establish a separate fund or trust for the support, maintenance, education and general welfare of any minor or incompetent child of the parties, including an incompetent child who is 18 years of age or older.

XVII. The court may require security to be given for the payment of child support.

XVIII Any motion for contempt of a court order regarding nonpayment of child support, if filed by a parent, shall be reviewed by the court within 30 days.

Cite as RSA 461-A:14

History. Amended by 2014, 225: 1, eff. 7/14/2014.

Amended by 2013, 154: 1, eff. 8/27/2013.

Amended by 2013, 201: 1, eff. 7/9/2013.

Note:

2005, 273:1, eff. Oct. 1, 2005. 2007, 121:2, eff. Aug. 10, 2007; 227:7, eff. June 25, 2007. 2008, 245:3, eff. June 24, 2008. 2010, 166:6, eff. June 17, 2010; 321:1, eff. Sept. 18, 2010.

§ 458-C:7. Modification of Order.

New Hampshire Statutes

Title 43. DOMESTIC RELATIONS

Chapter 458-C. CHILD SUPPORT GUIDELINES

Current through Chapter 89 of the 2017 Legislative Session

§ 458-C:7. Modification of Order

- I.
 - (a) The obligor or obligee may apply to the court or, when the department of health and human services has issued a legal order of support pursuant to RSA 161-C, to the department, whichever issued the existing order, for modification of such order 3 years after the entry of the last order for support, without the need to show a substantial change of circumstances. This section shall not prohibit the obligor or obligee from applying at any time for a modification based on substantial change of circumstances.
 - (b) Not less than once every 3 years the department shall provide notice to the parties subject to a child support order payable through the department informing them of their right to request a review, and, if appropriate, the right to apply for adjustment of the child support order. The notice provision may be included as part of the initial support order or any subsequent orders.
 - (c) Not less than once every 3 years the department shall review all child support orders in which there is an assignment to the department pursuant to Title IV-A of the Social Security Act and, if appropriate, apply for adjustment of the child support order in accordance with the child support guidelines.
- II. Any child support modification shall not be effective prior to the date that notice of the petition for modification has been given to the respondent. "Notice" means:
 - (a) Service as specified in civil actions; or
 - (b) Acceptance of a copy of the petition, as long as the petition is filed no later than 30 days following said acceptance, and as long as the petitioner provides proof of acceptance by a certified mail receipt. Nothing in this subparagraph shall be construed to affect service as required by law.
- III. Whenever the court, pursuant to this chapter, modifies a support order which results in an overpayment of support, the court shall order, absent a showing of undue hardship, the obligee to directly reimburse the obligor for such overpayment of support or order an adjustment to the modified support order until reimbursement of the overpayment has

been satisfied. Any reimbursement ordered shall be only for an overpayment that occurs after the date that notice of the petition for modification of support order was given to the respondent. The court shall enter an order for reimbursement as a provision of the modified order, which order for reimbursement shall take effect 30 days after issuance, unless either the obligor or obligee requests, within such 30-day period, a separate hearing to determine the amount and frequency of reimbursement.

Cite as RSA 458-C:7

Note:

1991, 233:1. 1995, 310:175, 181. 2004, 169:1, eff. July 23, 2004. 2007, 274:1, eff. Jan. 1, 2008. 2009, 101:1, eff. June 15, 2009.

QUESTIONS PRESENTED FOR REVIEW

1. Did the trial court commit an unsustainable exercise of discretion and/or an error of law in giving retroactive effect to Respondent's support obligation contrary to the specific prohibition contained in RSA 461-A:14 VIII and paragraph SO-3D that no modification of a support order shall alter arrearages due prior to the date of notice and that the effective date of any modification shall be no earlier than the date the petition is filed?
2. Did the trial court commit an unsustainable exercise of discretion and/or an error of law by failing to account for the fact that the support order at issue was a multiple child order and that different standards apply to multiple child orders and single child orders under the clear import of Paragraph SO-4B requiring a petition from a party to recalculate support whereas In single child orders, the support obligation terminates automatically, without the need for further court action, upon the emancipation of the child"?
3. Did the trial court commit an unsustainable exercise of discretion and/or an error of law by failing to give full faith and credit to, and essentially vacating, the prior judgments represented by the support amounts due and payable under the 2010 Uniform Support Order contrary to the provisions of RSA 461-A:14 VI?

STATEMENT OF THE CASE

In January of 2016, the Petitioner, through her counsel, sent a written demand to the Respondent for payment of a child support arrearage in the amount of \$16,240.00. By Petition to Change Court Order, dated July 19, 2016 and accepted by counsel for the Petitioner on August 19, 2016, the Respondent sought a three-year review of a Uniform Support Order which had been issued on February 16, 2010, with a request that any new support order be retroactive to July 1, 2014. The Respondent also sought to change the parenting plan.

Following a hearing held on January 17, 2017, the trial court found that a retroactive effective date was permitted by the statutes in effect at the time and the Standing Orders that were part of the 2010 Uniform Support Order. The trial court found that, as of the end of December 2016, the Respondent had accrued an arrearage of \$20,560.00 and granted a set-off against the arrearage of \$9,187.50 representing the amounts accrued from July 2014 through August 2016 and an additional set-off of \$1,377.40 for the period of September 2016 through December 2016. The request to change the parenting plan was denied. The parenting plan portion of the Order is not at issue here.

This appeal by the Petitioner followed.

STATEMENT OF FACTS

The parties were divorced in 2003. At the time of the divorce they had two children, Mitchell, born on March 22, 1996 and Matthew born on August 28, 2000. A Uniform Support Order was issued by the Family Court on February 16, 2010. That Order required the Respondent to pay child support in the amount of \$390.00 bi-weekly for the two children with the payments to commence on October 1, 2009. The 10th

Circuit Family Court in Brentwood found that there was an arrearage in child support of \$9,640.00 as of June 1, 2009. The arrearage in the child support was suspended pending further order or agreement.

In June of 2014, the oldest child became emancipated after he graduated from high school. The Respondent did not seek to modify his child support obligation at that time, and in fact waited until July of 2016, two years after the emancipation of the oldest child, to seek a review of his child support obligation and then sought to have any modification made retroactive. The Respondent filed that Petition to Modify only after the Petitioner made a demand for the payment of the arrearage. The Petitioner objected to the requested change stating that there had been no substantial change in the parties' financial status warranting a change in the Respondent's obligation and that any change made could not be effective prior to the date of service of the Respondent's Petition, August 2016.

The family court held that the statute and case law provide that a modification of child support based on emancipation of Mitchell should be made as of the date of emancipation, which in this case means that the modification should take place as of August, 2014.

The family court, in its Order, discussed the conflict between RSA 461-A:14 IV and RSA 461-A:14 VIII. RSA 461-A:14 IV provides that the child support obligation terminates without further legal action when the child completes his or her high school education or reaches the age of 18 years, whichever is later. RSA 461-A:14 VIII provides that no modification of a support order shall alter the arrearages due prior to the date of filing the motion for modification. In an attempt to resolve the apparent conflict, the family court relied on this Court's holding within In re Nicholson, 164 N.H.

105, (2012). The family court concluded that the Respondent is entitled to a recalculation of child support from July 2014 through December 2016, using the income and expenses in effect at that time based on one child rather than two. The child support guidelines worksheet results in a monthly child support obligation of \$491.00 rather than \$844.35, resulting in a net monthly overpayment of \$353.35. The parties calculated that, based on the existing Uniform Support Order of 2010, the Respondent had an arrearage of \$20,560.00 as of the end of December 2016. The family court found that the Respondent is entitled to a setoff of \$9,187.00 against that arrearage for the period from July 2014 through August 2016. The family court further recalculated a new child support obligation effective September 2016 of \$500.00 per month, resulting in an additional, net monthly overpayment of \$344.35 thus awarding giving the Respondent an additional setoff of \$1,377.40 from September 2016 through December 2016. The family court concluded that the Respondent is entitled to a total setoff of \$10,564.90 reducing his arrearages to \$9,995.10.

SUMMARY OF ARGUMENT

Child support payments ordered and administered by the court are deemed judgments when due and payable.

Multiple child support orders are treated differently than single child support payments. Single child support payments terminate automatically when the child becomes emancipated. In the case of multiple child support payments, the ordered payment continues until the youngest child is emancipated unless recalculated according to the guidelines upon petition of any party.

Under the facts and circumstances of this case, the family court committed an unsustainable exercise of discretion and/or an error of law in applying the single child

standard to a multiple child situation, which, in effect, vacated judgments based on the prior support order.

ARGUMENT

Question 1. Did the trial court commit an unsustainable exercise of discretion and/or an error of law in giving retroactive effect to Respondent's support obligation contrary to the specific prohibition contained in RSA 461-A:14 VIII and paragraph SO-3D that no modification of a support order shall alter arrearages due prior to the date of notice and that the effective date of any modification shall be no earlier than the date the petition is filed?

RSA 461-A:14 VIII provides that "No modification of a support order shall alter any arrearages due prior to the date of filing the motion for modification."

SO-3D states: "No modification of a support order shall alter any arrearages due prior to the date of filing the pleading for modification."

When the Respondent filed his Petition to Change Court Order, July 21, 2016, there was an existing child support arrearage in the amount of \$20, 560.00, based on the Uniform Support Order of 2010. The Respondent requested that any modification be retroactive to July 1, 2014, a full two-years prior to the time that he filed the petition for modification. During that time the Respondent took no action to modify his child support obligation and the arrearage continued to accrue. The Family Court, nevertheless, made the modification retroactive, thus eliminating a portion of the accrued child support arrearage.

The Respondent's delay of two years from the date of emancipation of the parties' oldest child, before he sought a modification of child support based on that modification, constitutes laches, at least with respect to his request for a retroactive modification. See Cote v. Cote, 94 N.H. 372 374 (1947).

The New Hampshire Supreme Court is the final arbiter of the legislature's intent as expressed in the words of the statute considered as a whole. The Court interprets

legislative intent from the statute as written, and will not consider what the legislature might have said or add words that the legislature did not include. Moreover, the Court interprets statutes in the context of the overall scheme and not in isolation. In the Matter of Nicholas Kelly and Astrid Fernandes-Prabhu, ____ N.H. ____, decided March 1, 2017, citing In the Matter of Hampers & Hampers, 166 N.H. 422, 433 (2014). This Court will first examine the language found in the statute and where possible ascribe the plain and ordinary meanings to the words used. Snedeker v. Snedeker, 145 NH 19, 20 (2000) citing Bohan v. Ritzo, 141 NH 210, 213 (1996).

The plain language of RSA 461-A:14 VIII is clear and direct. The statute, taken as a whole, considering the words of RSA 461-A:14 VI which provides that support payments ordered or administered by the court under this chapter shall be deemed judgments when due and payable, clearly expresses the intent of the legislature that once an arrearage has accrued it becomes a judgment which cannot be altered prior to the date of filing for the modification.

The family court's reliance on the decision of the New Hampshire Supreme Court in In the Matter of Nicholson and Nicholson, 164 NH 105 (2012) is misplaced.

In Nicholson, the parties were divorced in 2000. They had three minor children, for whom father was paying child support. Father unilaterally reduced his child support when the oldest child turned eighteen in May of 2007. In 2011, mother filed a motion for contempt. In interpreting the terms of the decree, the Supreme Court looked at the parties' stipulation, the Standing Orders which had been incorporated into the decree and the statute in effect at the time. The Court concluded that SO-3B in effect at the time of the divorce, states that "except as provided otherwise" the effective date of any modification shall be no earlier than the date the petition is filed." The SO-4B in effect at

the time stated "child support shall be recalculated in accordance with the guidelines whenever there is a change in the number of children for whom support is ordered, effective the date of the change." This Court held that SO-4B did "provide otherwise" and held that the modification had to be retroactive to the date of the emancipation.

The facts in the case at bar are significantly different from the facts in Nicholson. The parties in this case were divorced in 2003, and had two minor children. The Decree incorporated a stipulation, a USO and Standing Orders. Significantly, however, there was a new support order issued in 2010. The 2010 order remained in effect. In 2014, the parties' oldest child became emancipated, but, unlike Nicholson, father in the White case did not unilaterally change the amount of child support payment. The USO on file with the family court as of February 16, 2010 does not include an attached Standing Order although it includes the version effective 07/01/2008 (see the bottom left corner of the USO) and references a standing order (or "SO").

The Obligor waited until 2016 to ask the family court for a modification of the support order. The decision in this case is controlled not by the decree of 2003 but the Support Order and attached USO of 2010.

The family court erred as a matter of law in retroactively modifying the Respondent's child support obligation in a manner that altered the accrued child support arrearage. That error is to the prejudice of the Petitioner in that it deprived her of a judgment for the unpaid child support. RSA 461-A:14 VIII specifically provides that no modification of a support order shall alter any arrearages due prior to the date of filing of the motion for modification. RSA 458-C:7 II provides that no child support modification

shall be effective prior to the date that notice of the petition for modification was given to the respondent. See In the Matter of Zikmanis & Peabody, 160 N.H. 82, (2010).

The trial court's rulings of law will be upheld unless they constitute a clear error of law. Fat Bullies Farm, LLC v. Lori Devenport ____ NH ____, decided May 26, 2017, citing Beer v. Bennett, 160 NH 166, 168-169 (2010).

To show that the trial court's decision is unsustainable, the appellant must demonstrate that the court's ruling was clearly untenable or unreasonable to the prejudice of his case. State v. Lambert, 147 NH 295, 296 (2001).

Question 2. Did the trial court commit an unsustainable exercise of discretion and/or an error of law by failing to account for the fact that the support order at issue was a multiple child order and that different standards apply to multiple child orders and single child orders under the clear import of Paragraph SO-4B requiring a petition from a party to recalculate support whereas :In single child orders, the support obligation terminates automatically, without the need for further court action, upon the emancipation of the child”?

RSA 461-A:14 IV provides that “The amount of a child support obligation shall remain as stated in the order until the dependent child for whom the support is ordered completes his or her high school education or reaches the age of 18 years, whichever is later or marries, or becomes a member of the armed services, at which time the child support obligation, including all educational support obligations, terminates without further legal action.”

NH RSA 461-A:14 IV is written in the singular tense, that is it applies to cases where there is only one child for whom support is ordered. Cases involving support for multiple children are distinguished.

SO-4B provides that in multiple child orders, the amount of child support may be recalculated according to the guidelines whenever there is a change in the number of children for whom support is ordered, upon petition of any party. In single child support orders the support obligation terminates automatically, without the need for further court action, upon emancipation of the child.

The trial court committed an error of law when it applied the single child approach to a multiple child situation. That error of law thus deprived the Petitioner of a judgment for all of the child support arrearage.

The trial court's rulings of law will be upheld unless they constitute a clear error of law. Fat Bullies Farm, LLC v. Lori Devenport, ____ NH ____, decided May 26, 2017, citing Beer v. Bennett, 160 NH 166, 168-169 (2010)

Question 3. Did the trial court commit an unsustainable exercise of discretion and/or an error of law by failing to give full faith and credit to, and essentially vacating, the prior judgments represented by the support amounts due and payable under the 2010 Uniform Support Order contrary to the provisions of RSA 461-A:14 VI?

RSA 461-A:14 VI provides "All support payments ordered or administered by the court under this chapter shall be deemed judgments when due and payable. Such judgments shall be given full faith and credit by all jurisdictions of this state."

As previously noted, on or around July 21, 2016, when the Respondent filed his Petition to Change Court Order there was an existing child support arrearage in the amount of \$20,560.00. The Order of the trial court, dated February 10, 2017, specifically states that number on page 3 of the Order and indicates that the parties calculated that arrearage. The Respondent neglected to file a modification of the child support Order in July of 2014 following the older child's emancipation. He sought no modification and had a continued obligation to pay support for the younger, unemancipated child. The arrearage, based on the continued child support order continued to accrue and by July 21, 2016 constituted a judgment in favor of the Petitioner in the amount of \$20,560.00. RSA 461-A:14 VI mandates that such judgment shall be given full faith and credit by all jurisdictions of this state.

The New Hampshire Supreme Court is the final arbiter of the legislature's intent as expressed in the words of the statute considered as a whole. The Court interprets legislative intent from the statute as written, and will not consider what the legislature might have said or add words that the legislature did not include. Moreover, the Court interprets statutes in the context of the overall scheme and not in isolation. In the Matter of Nicholas Kelly and Astrid Fernandes-Prabhu, ____ N.H. ____, decided March 1, 2017, citing In the Matter of Hampers & Hampers, 166 N.H. 422, 433 (2014). This Court will first examine the language found in the statute and where possible ascribe the plain and ordinary meanings to the words used. Snedeker v. Snedeker, 145 NH 19, 20 (2000) citing Bohan v. Ritzo, 141 NH 210, 213 (1996).

The plain language of RSA 461-A:14 VII is clear and direct. The support arrearage is a judgment which is to be given full faith and credit by all jurisdictions of this state.

The trial court committed an error of law by failing to give full faith and credit to the child support arrearage as a judgment and by making a retroactive calculation of the child support obligation in a manner which essentially vacated a judgment. That error of law is prejudicial to the case of the Petitioner in that it partially deprived her of a judgment.

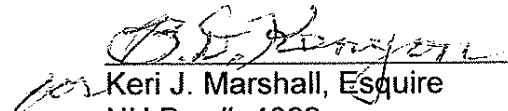
CONCLUSION

The Order of the family court which retroactively modified the Respondent's child support obligation is based on an error of law. Under the facts and circumstances of this case, where there was a multiple child support order, the amount of child support did not automatically change on the emancipation of the older of the two children. The Respondent could have sought a modification at the time of the emancipation, but

chose not to do so until two years later. The child support arrearage that accrued during that time became a judgment in favor of the Petitioner. Vacating that judgment is an error of law which must be reversed.

Respectfully submitted,
Wendy S. White
by her attorney

Dated: June 16 2017


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REQUEST FOR ORAL ARGUMENT

The Appellant, Wendy S. White, respectfully requests to be heard on oral argument on this matter. It is estimated that the time required for the Appellant's oral argument will be fifteen minutes.

Dated: June 16, 2017


for Keri J. Marshall, Esquire

CERTIFICATE OF SERVICE

I, Keri J. Marshall, hereby certify that two copies of the foregoing Brief of Wendy S. White, were on this date mailed to Leah Sullivan, Esquire, counsel for Michael L. White and two copies were mailed to the 10th Circuit-Family Division-Brentwood.

Dated: June 16, 2017


for Keri J. Marshall, Esquire

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
NH CIRCUIT COURT

COUNTY OF ROCKINGHAM

10TH CIRCUIT – FAMILY DIVISION · BRENTWOOD

In the Matter of:
Wendy White and Michael White
Case No. 618 – 2003 – DM – 79

ORDER ON RESPONDENT'S PETITION TO CHANGE COURT
ORDER REGARDING PARENTING SCHEDULE AND CHILD SUPPORT (Index number 111)

Both parties appeared for a hearing on January 17, 2017 on respondent's petition to change court orders regarding the parenting plan residential schedule and child support (Index number 111). Both parties were represented by counsel. Based on the evidence presented, the court makes the following findings and orders.

PARENTING PLAN

The existing parenting plan is set out in the parties' Permanent Stipulation dated October 23, 2003 (Index number 39) in which mother was "awarded physical custody of the minor children" (now known as primary residential responsibility) and father was awarded "visitation/physical custody rights" (now known as parenting time). Although the stipulation was not for approximately equal parenting time, father had substantial parenting time, including on Mondays, overnight from Wednesday to Thursday, and additional parenting time on alternating week schedules (Friday during one week in Saturday to Monday during the next week).

Father is now seeking what he describes as one an additional overnight every 14 days, increasing his time from 6 overnights to 7 overnights every 14 days. This petition is based on RSA 461 – A: 11 (f) as a "minimal change was no change" in the allocation of parenting time.

Mother argues that adding an additional overnight every 14 days is not a minimal change in the allocation of parenting time.

The court agrees that adding an additional overnight every 14 days is not a minimal change, which in effect adds two overnights per month. The court simply cannot describe that change as "minimal". There was no other basis for the change, such as the minor child, Matthew (date of birth August 28, 2000) being determined to be a mature minor, whose preference could be considered as part of the determination.

Accordingly, the petition to change the parenting plan is denied.

UNIFORM SUPPORT ORDER

Father requests a 3 year review of the uniform support order, last issued on or about February 16, 2010. Father also requests that the uniform support order be made retroactive to July 1, 2014 because the parties' older son, Mitchell (date of birth March 22, 1996), became emancipated in June 2014 upon graduation from high school.

Mother argues that there has been no substantial financial change warranting a change in the guideline support order of \$844.35 per month (\$390 biweekly), and that any change can only go back to the date of service of the petition to change child support in August 2016.

In connection with a modification of child support based on the emancipation of Mitchell, the court finds that the statute and case law provide that the modification is required to be made as of the date of emancipation, which in this case means the modification should take place as of August 2014.

RSA 461 – A: 14 IV provides as follows:

IV. The amount of a child support obligation shall remain as stated in the order until the dependent child for whom support is ordered completes his or her high school education or reaches the age of 18 years, whichever is later, or marries, or becomes a member of the armed services, at which time the child support obligation, including all educational support obligations, terminates without further legal action. If the parties have a child with disabilities, the court may initiate or continue the child support obligation after the child reaches the age of 18. No child support order for a child with disabilities which becomes effective after July 9, 2013 may continue after the child reaches age 21.

The court needs to read the statute as a whole, and must read the statute in a reasonable manner. Even though section VIII of the statute provides that no modification of a support order shall alter the arrearages due prior to the date of filing the motion for modification (in this case in August 2016), section IV requires termination of the child support (in this case for Mitchell) without further legal action. Therefore, there can be no arrearages accrued in connection with child support calculated for Mitchell after July 2014 because no further child support for Mitchell could be ordered after July 2014.

The Supreme Court made a similar determination in connection with interpreting the prior statute regarding this issue as follows:

The question here is whether the terms of the divorce decree and controlling statute mandate a retrospective recalculation of support.

At the time the parties divorced, RSA 458:35–c (1992) governed this situation. It has since been amended and recodified as RSA 461–A:14, IV (Supp.2011). *See In the Matter of Johnson & Johnson*, 158 N.H. 555, 559, 969 A.2d 365 (2009). However, the amended version is not applicable here, for it “has prospective application only, and does not apply to post-enactment modifications of orders that were issued prior to the change in legislation.” *Id.* Thus, the version of RSA 458:35–c in effect at the time of the parties' divorce is controlling. It provided, in relevant part:

Unless the court ... specifies differently, the amount of a child support obligation stated in the order for support shall remain as stated in the order until all dependent children for whom support is provided in the order shall terminate their high school education or reach the age of 18 years, whichever is later, or become married, or become a member of the armed forces, at which time the child support obligation terminates without further legal action. This amount shall remain as specified unless a legal order expressly allocates the payments on a per child basis.

(Emphasis added.) Thus, unless the court “specified differently,” the amount of the support ordered would remain unchanged until all children were emancipated as described. Accordingly, we look to the terms of the final decree to determine whether the court “specified differently.”

45 *108 In interpreting the meaning of a divorce decree, we review the decree *de novo*. *Sommers v. Sommers*, 143 N.H. 686, 692, 742 A.2d 94 (1999). We consider the intent of the parties as expressed in the language of the stipulation. *Id.* Paragraph SO-4A of the SO, incorporated in the stipulation, states:

Child support shall terminate when the youngest child terminates his/her high school education or reaches the age of 18 years, whichever is later; gets married; or becomes a member of the armed forces.

Paragraph SO-3B states that “[e]xcept as otherwise provided in this order, the effective date of any modification shall be no earlier than the date the petition is filed.” Paragraph SO-4B of the SO does “provide otherwise,” for it instructs that “child support shall be recalculated in accordance with the guidelines whenever there is a change in the number of children for whom support is ordered, *effective the date of the change.*”

(Emphasis added.) Thus, pursuant to the plain language of the SO, in calculating the support arrearage, the trial court was obligated to retrospectively recalculate child support as of the dates upon which each of the two older children became emancipated. That the parents failed to obtain a court order modifying the support obligation when each child's status changed is of no consequence; RSA 458:35-c permits the trial court's order to specify differently, and it did so.

In re Nicholson, 53 A.3d 535, 537-38 (N.H. 2012)

Father is entitled to a recalculation of child support from July 2014 through December 2016, using the income and expenses in effect at that time based on one minor child (Matthew) rather than two (Matthew and Mitchell). The child support guidelines worksheet results in a monthly child support obligation of \$491 rather than \$844.35, resulting in a net monthly overpayment of \$353.35.

The parties calculated that based on the existing uniform support order of 2010 (Index number 109) father had an arrearage of \$20,560 as of the end of December 2016. Against that arrearage, father is entitled to a set off of \$9187.50 (for the period of time from July 2014 through August 2016).

In addition, the court has calculated a new child support based on the 3 year review as requested by father, which has an effective date of September 2016 based on the service date of the petition to change child support in August 2016. The new child support order based on a downward deviation of the guidelines calculation (as explained below) provides for father to pay mother \$500 per month, resulting in a net monthly overpayment of \$344.35. Father is entitled to an additional set off of \$1377.40 from September 2016 through December 2016.

Father is entitled to a total set off of \$10,564.90, which reduces his arrearages to \$9995.10 (\$20,560 -\$10,564.90).

The new uniform support order with an effective date of September 2016 is based on the current financial affidavits of the parties which provides for a guidelines support amount of \$628 per month based on father as obligor and mother as obligee. Since the parties' stipulation in 2003, father has always been considered the obligor and mother has always been considered the obligee, based on the mother having primary residential responsibility for the parties' minor children. During the course of time from the permanent stipulation through the present, mother has generally had greater income than father and the standard guidelines amount has been ordered.

Since there is no change in the parenting plan as requested by father, mother remains the primary residential parent and therefore father would continue to be considered the obligor and mother as the obligee for child support purposes. The guideline support amount is \$628 per month.

Mother did not establish that father is underreporting his self-employment income based on the evidence submitted at the hearing.

Father did establish special circumstances warranting a small downward adjustment to the guidelines amount under RSA 658 – C: 5. Father did not establish that there is equal parenting residential responsibility under section (h) of the statute. In addition, even if there were approximately equal residential responsibility, father did not establish that there is a reduction in any of the fixed costs of child rearing incurred by the obligee parent.

Father did show under section (i) of the statute that he is providing for voluntary postsecondary education expenses for the parties' older son Mitchell, in the amount of \$8087.96 for 2016 for Mitchell to attend Maine Maritime Academy. The payment is significant based on father's income and expenses and is therefore a basis for a downward deviation. The payment represents \$674 per month. The court makes a downward deviation of \$125 per month.


A new uniform support order is issued herewith. The court holds that the arrearages are held in abeyance as they were in the last uniform support order, pending further pleading or agreement.

In addition, father had been paying mother \$200 per month for his health insurance. Based on father's financial affidavit, he now is paying for health insurance himself. Therefore, there is no order requiring payment from father to mother for health insurance coverage.

So Ordered.

February 10, 2017

Date



Hon. David G. LeFrancois, Justice

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
<http://www.courts.state.nh.us>

Court Name: 10th Circuit - Family Division - Brentwood
Case Name: In the Matter of Wendy White and Michael White
Case Number: 2003-M-0079
(if known)

UNIFORM SUPPORT ORDER

<p>Name, Residence and Mailing Address of Person Ordered to Pay Support (Obligor)</p> <p><u>Michael White</u> <u>636 Main St</u> <u>Saudun NH 03873</u></p> <p>D.O.B. <u>4/26/1966</u> Telephone <u>(603) 498-8112</u> E-mail Address _____ Employer <u>self employed-Great Pond Carpentry</u> Employer Address <u>PO Box 241</u> <u>Kingston, NH 03848</u></p>	<p>Name, Residence and Mailing Address of Person Receiving Support (Obligee)</p> <p><u>Wendy White</u> <u>6 Black Adler Drive</u> <u>Kingston, NH 03848</u></p> <p>D.O.B. <u>4/20/1965</u> Telephone <u>(603) 642-8991</u> E-mail Address _____ Employer <u>Catamount Management Corp</u> Employer Address <u>6 Kimball Lane</u> <u>Lynnfield, MA 01940</u></p>
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Child(ren) to whom this order applies :

<u>Full Name</u>	<u>Date of Birth</u>	<u>Full Name</u>	<u>Date of Birth</u>
<u>Matthew</u>	<u>8/28/2000</u>		

The following parties appeared: Obligor Obligee Division of Child Support Services
 Other _____

NOTE: SECTIONS PRECEDED BY ARE ONLY PART OF THIS ORDER IF MARKED.

- | | |
|---|--|
| <p>1. This order is entered:</p> <p><input type="checkbox"/> after hearing</p> <p><input checked="" type="checkbox"/> upon approval of agreement</p> <p><input type="checkbox"/> upon default</p> | <p>2. This order is a:</p> <p><input type="checkbox"/> temporary order</p> <p><input type="checkbox"/> final order</p> |
|---|--|
3. This order modifies a final support obligation in accordance with :
- a three year review (RSA 458-C:7) OR substantial change in circumstances, as follows :

Case Name: In the Matter of Wendy White and Michael White

Case Number: 2003-M-0079

UNIFORM SUPPORT ORDER

4. Obligor is ORDERED to PAY THE FOLLOWING AMOUNTS (See Standing Orders 4A-4G.):

4.1 **CHILD SUPPORT:** \$ 500 per month

4.2 Arrearage of \$ 9445.10 as of 12/31/16 payable \$ 0.00 per month

4.3 Medical arrearage of \$ 0.00 as of _____ payable \$ 0.00 per _____

4.4 **SPOUSAL SUPPORT (ALIMONY):** \$ 0.00 per Month

4.5 Arrearage of \$ 0.00 as of _____ payable \$ 0.00 per _____

4.6 Alimony shall terminate _____

5. Payments on all ordered amounts shall begin on January 1 2017

All ordered amounts shall be payable to Oblige DCSS Other _____

6. This order complies with the child support guidelines. RSA 458 - C.

This order, entered upon obligor's default, is based on a reasonable estimate of obligor's income. Compliance with the guidelines cannot be determined.

The following special circumstances warrant an adjustment from the guidelines:

voluntary college education expenses for another child

7. Support ordered is payable by immediate income assignment.

8. The Court finds that there is good cause to suspend the immediate income assignment because:

Obligor and obligee have agreed in writing.

Payments have been timely and it would be in the best interest of the minor child(ren) because:

9A. Obligor is unemployed and **MUST REPORT EFFORTS TO SEEK EMPLOYMENT (See Standing Order 9A).**

9B. Upon employment the Obligor shall bring the matter forward for recalculation of support. Failure to do so may result in a recalculated support order effective the date of employment.

MEDICAL SUPPORT FINDINGS (Paragraphs 10 through 15)

10. OBLIGOR'S medical support reasonable cost obligation: \$ 253.00 per month.

10A. The medical support reasonable cost obligation is adjusted from the presumptive amount because of the following special circumstances (See Standing Order 6):

11. Private health insurance coverage is not available is available to the OBLIGOR in an amount equal to or less than the amount of the medical support reasonable cost obligation ordered in paragraph 10.

12. Private health insurance coverage available to the OBLIGOR is not accessible to the child(ren).

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13. OBLIGEE'S medical support reasonable cost obligation: \$ 293.00 per month.

13A. [] The medical support reasonable cost obligation is adjusted from the presumptive amount because of the following special circumstances (See Standing Order 6):

14. Private health insurance coverage [] is not available [x] is available to the OBLIGEE in an amount equal to or less than the amount of the medical support reasonable cost obligation ordered in paragraph 13.

15. [] Private health insurance coverage available to the OBLIGEE is not accessible to the child(ren).

PRIVATE HEALTH INSURANCE COVERAGE (Paragraph 16A and/or 16B must be completed)

16A. [] Obligor [x] Obligee is ordered to provide private health insurance coverage for the child(ren) effective in place

16B. [] Obligor [] Obligee is/are not ordered to provide private health insurance coverage at this time but is/are ordered to immediately obtain private health insurance coverage when it becomes accessible and available at an amount equal to or less than the ordered medical support reasonable cost obligation.

UNINSURED MEDICAL EXPENSES

17. Uninsured medical expenses shall be paid in the following percentage amounts :

Obligor 50 % Obligee 50 % Other

[] 18. Public assistance (TANF) or medical assistance (Medicaid) is or was provided for the child(ren). Copies of pleadings related to medical coverage and child support were mailed to the Division of Child Support Services, Child Support Legal, 129 Pleasant Street, Concord, NH 03301.

19. [] Obligor [] Obligee is adjudicated the father of the minor child(ren) named above. The clerk of the city(ies) of shall enter the name of the father on the birth certificate(s) of the child(ren). The father's date of birth is and his state of birth is

20. The State of has provided \$ 0.00 in public assistance for the benefit of the minor child(ren) between and for weeks. Obligor is indebted for the assistance in the total amount of \$ 0.00

21. Variation to standing order (specify paragraph #), additional agreement or order of the Court:

~~Additionally, the Obligor shall pay Wendy \$200.00 per month for his health insurance. This is subject to change, for if he does not pay on or before the 7th of each month the coverage may be canceled. This agreement shall be reviewable absent any change in twelve months. Alimony is suspended without prejudice to the Obligee. Arrearage on the child support is also suspended pending further order or agreement. Neither party wishes to~~

Obligor Michael White

Obligee Wendy White

Staff Attorney
Division of Child Support Services

Obligor's Attorney/Witness

Obligee's Attorney/Witness

Date

Date

Date

Case Name: _____
Case Number: _____

UNIFORM SUPPORT ORDER

All paragraphs of this order (except those that have a check box and have not been selected) and all paragraphs of the Standing Order, (except variations in paragraph 21) are part of this order and apply to all parties.

Recommended:

Date

Signature of Marital Master/Hearing Officer

Printed Name of Marital Master/Hearing Officer

So Ordered:

I hereby certify that I have read the recommendation(s) and agree that, to the extent the marital master/judicial referee/hearing officer has made factual findings, she/he has applied the correct legal standard to the facts determined by the marital master/judicial referee/hearing officer.

Date *2/10/17*

Signature of Judge *[Signature]*
David G. LeFrancois

Printed Name of Judge

**THE STATE OF NEW HAMPSHIRE
UNIFORM SUPPORT ORDER — STANDING ORDER**

NOTICE: This Standing Order (SO) is a part of all Uniform Support Orders (USO) and shall be given full effect as an order of the Court. Variations to paragraphs of the SO in a specific case must be entered in paragraph 21 of the USO and approved by the Court.

(Paragraph numbers in the SO correspond to related paragraph numbers in the USO. Variations entered in paragraph 21 should reference the related paragraph number.)

SUPPORT PAYMENT TERMS

SO-3A. All prior orders not inconsistent with this order remain in full force and effect.

SO-3B. In cases where the order of another jurisdiction is registered for modification, a tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing jurisdiction. (See RSA 546-B:49,III.)

SO-3C. This order shall be subject to review and Court modification three years from its effective date upon the request of a party. Any party may petition the Court at any time for a modification of this support order if there is a substantial change in circumstances. The effective date of any modification shall be no earlier than the date of notice to the other party. "Notice" means either of the following: 1) service as specified in civil actions or 2) the respondent's acceptance of a copy of the petition, as long as the petition is filed no later than 30 days following the respondent's acceptance. See RSA 458-C:7.

NOTE: The July 1, 2013 change to the child support guidelines does not constitute a substantial change in circumstances. 2012, Chapter 248:5, "Applicability" states as follows (emphasis added):

"RSA 458-C:3, I as amended by this act shall apply to any child support order issued on or after July 1, 2013. RSA 458-C:3, I as amended by this act shall not apply to a valid child support order in effect on the effective date of this act until the next scheduled review hearing under RSA 458-C:7 or as otherwise agreed by the parties. This act shall not constitute a substantial change in circumstances for purposes of RSA 458-C:7."

SO-3D. No modification of a support order shall alter any arrearages due prior to the date of filing the pleading for modification. RSA 461-A:14, VIII.

SO-4A. The amount of a child support obligation shall remain as stated in the order until the dependent child for whom support is ordered completes his or her high school education or reaches the age of 18 years, whichever is later, or marries, or becomes a member of the armed services, at which time the child support obligation, including all educational support-obligations, terminates without further legal action, except where duration of the support obligation has been previously determined by another jurisdiction, or is governed by the law of another jurisdiction, and may not be modified in accordance with statutory language referenced in SO-3B. If the parties have a child with disabilities, the court may initiate or continue the child support obligation after the child reaches the age of 18. No child support order for a child with disabilities which becomes effective after July 9, 2013 may continue after the child reaches age 21. (See RSA 461-A:14, IV)

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- SO-4B. In multiple child orders, the amount of child support may be recalculated according to the guidelines whenever there is a change in the number of children for whom support is ordered, upon petition of any party. In single child orders, the support obligation terminates automatically, without the need for further court action, upon the emancipation of the child. The obligor remains obligated for any and all arrearages of the support obligation that may exist at the time of emancipation.
- SO-4C. If the order establishes a support obligation for more than one child, and if the court can determine that within the next 3 years support will terminate for one of the children, the amount of the new child support obligation for the remaining children may be stated in the order and shall take effect on the date or event specified without further legal action.
- SO-4D. In cases payable through the New Hampshire Division of Child Support Services (DCSS), if there are arrearages when support for a child is terminated, payments on the arrearages shall increase by the amount of any reduction of child support until the arrearages are paid in full.
- SO-4E. Pursuant to RSA 161-C:22, III when an assignment of support rights has terminated and obligor and the recipient of public assistance reunite, obligor may request a suspension of the collection of support arrearage owed to the state under RSA 161-C:4. So long as the family remains reunited and provided that the adjusted gross income of the family as defined by RSA 458-C is equal to or less than 185% of the Federal poverty guidelines as set by the United States Department of Health and Human Services, DCSS shall not take any action to collect the support arrearage owed to the State.
- SO-4F. If the collection of a support arrearage pursuant to RSA 161-C:4 is suspended, the obligor shall provide DCSS with a financial affidavit every six months evidencing the income of the reunited family and shall notify his or her child support worker in writing within ten days of any change in income or if the family is no longer reunited. Failure to report changes in income or in the status of the family as reunited or to provide a financial affidavit shall cause the suspension of collection to terminate.
- SO-4G. Each party shall inform the Court in writing of any change in address, within 15 days of the change, so long as this order is in effect. Service of notice of any proceeding related to this order shall be sufficient if made on a party at the last address on file with the Court. A party who fails to keep the Court informed of such a change in address, and who then fails to attend a hearing because of the lack of notice, may be subject to arrest.
- SO-5A. If no date appears in paragraph 5 of the USO, the first support payment shall be due on the date this order is signed by the Judge.
- SO-5B. If support is payable through DCSS, a DCSS application for child support services must be submitted before DCSS can provide services in accordance with the order.
- SO-5C. If support is payable through DCSS, DCSS is authorized and directed to collect all sums, including any arrearages, from the obligor and forward the sums collected to the obligee or person, department, or agency providing support to the children named in the USO. Any payment shall be applied first as payment towards the current child and medical support obligation due that month and second towards any arrearages.
- SO-5D. If support is ordered payable directly to the obligee, it can only be made payable through DCSS at a later time if (1) the children named in the USO receive assistance pursuant to RSA 161 or RSA 167; (2) a party applies for support enforcement services and certifies to DCSS that (a) an arrearage has accumulated to an amount equal to the support obligation for one month, or (b) a court has issued a protective order pursuant to RSA 173-B or RSA 461-A:10 which remains in full force and effect at the time of application; or (3) a court orders payment through DCSS upon motion of any party that it is in the best interest of the child, obligee, or obligor to do so. RSA 161-B:4.
- SO-5E. Collection by DCSS on any arrearage may include intercepting the obligor's federal tax refund, placing liens on the obligor's personal and real property including qualifying financial accounts. Federal tax refund intercept and lien remedies shall be used to collect arrearages even if an obligor is complying with the child support orders. Pursuant to 45 CFR 303.72 (h) any federal tax refund intercept shall be applied first as payment towards the past due support assigned to the State.
- SO-5F. In all cases where child support is payable through DCSS, obligor and obligee shall inform DCSS in writing of any change of address or change of name and address of employer, within 15 days of the change.
- SO-5G. In all cases where child support is payable through DCSS, obligor and obligee shall furnish their social security numbers to the New Hampshire Department of Health and Human Services (Department).
- SO-6. Where the court determines that, in light of the best interests of the child, special circumstances exist that result in adjustments in the application of the guidelines for the child support obligation or the reasonable medical support obligation, the court shall make written findings relative to the applicability of one or more of the special circumstances described in RSA 458-C:5, I.

Case Name: _____

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UNIFORM SUPPORT ORDER

INCOME ASSIGNMENT

- SO-7A. Until such time as an income assignment goes into effect, payments shall be made as follows: (1) if the case is not payable through DCSS, directly to obligee, or (2) if support is payable through the DCSS by use of payment coupons available at the local DCSS office. An income assignment will not go into effect for self-employed obligors as long as they do not receive income as defined in RSA 458-B:1, paragraph IX. Future income will be subject to assignment if the case is payable through DCSS.
- SO-7B. If a parent is ordered to provide health coverage for Medicaid-eligible child(ren), he or she must use payments received for health care services to reimburse the appropriate party, otherwise his or her income may be subject to income assignment by DCSS. RSA 161-H:2(V).
- SO-7C. Increased income assignment for the purposes of payment on arrearages shall continue until such time as the arrearages are paid in full.
- SO-8. Whenever an income assignment is suspended, it may be instituted if a Court finds obligor in violation or contempt of this order OR after notice and the opportunity to be heard (RSA 458-B:5 & 7), when the Department begins paying public assistance for the benefit of a child OR when an arrearage amounting to the support due for a one-month period has accrued.

REPORT CHANGES OF EMPLOYMENT

- SO-9A. If support is payable through DCSS, obligor shall report in writing weekly, or as otherwise ordered by Court, to DCSS, and shall provide details of efforts made to find a job. Efforts to obtain employment shall include registering with New Hampshire Employment Security within two weeks of the date of this order. The obligor shall immediately report employment to DCSS in writing.
- SO-9B. Immediately upon employment the obligor shall report to the obligee, in writing, details of employment, including name and address of employer, the starting date, number of weekly hours and the rate of pay.

MEDICAL SUPPORT PROVISIONS

- SO-10-16B (1). In all cases where support is payable through DCSS, or where the Department is providing medical assistance for the child(ren) under RSA 167, the court shall include the medical support obligation in any child support order issued. RSA 461-A:14, IX(d).
- SO-10-16B (2). The court shall establish and order a reasonable medical support obligation for each parent. The presumptive amount of a reasonable medical support obligation shall be 4 percent of the individual parent's gross income, unless the court establishes and orders a different amount based on a written finding or a specific finding, made by the presiding officer on the record, that the presumptive amount would be unjust or inappropriate, using the criteria set forth in RSA 458-C:5.
- SO-10-16B (3). The court shall determine whether private health insurance is available to either parent at a cost that is at or below the reasonable medical support obligation amount, as established and ordered pursuant to RSA 458-C:3, V, or is available by combining the reasonable medical support obligations of both parents, and, if so available, the court shall order the parent, or parents, to provide such insurance for the child.
- SO-10-16B (4). The cost of providing private health insurance is the cost of adding the child to existing coverage, or the difference between individual and family coverage.
- SO-12, 15. Accessible health insurance means the primary care services are located within 50 miles or one hour from the child(ren)'s primary residence. RSA 461-A:14, IX(b).
- SO-16A-16BA party providing or ordered to provide health insurance for the child(ren) shall give the other party sufficient information and documentation to make sure insurance coverage is effective. If support is payable through DCSS, or if there has been an assignment of medical support rights to DCSS, the information and documentation shall be provided to DCSS. In addition, obligor shall inform DCSS in writing when health insurance is available, obtained or discontinued.