

Tennessee Department of Human Services

Child Support Division



A Guide to Tennessee Income Shares

DHS Rule Chapter 1240-2-4

2006 Edition

June 26, 2006

TABLE OF CONTENTS

I.	Background	1
II.	Calculation Tools	1
	Child Support Worksheet	2
	Credit Worksheet	4
	Child Support Schedule	5
III.	Child Support Worksheet – Part I – Identification	5
IV.	Child Support Worksheet – Part II – Adjusted Gross Income	8
	Gross Income	8
	Adjustments to Gross Income	11
	Adjusted Gross Income (AGI)	14
V.	Child Support Worksheet – Part III – Parents’ Share of BCSO	15
	BCSO	15
	Parenting Time Adjustment	18
VI.	Child Support Worksheet – Part IV – Additional Expenses	22
VII.	Child Support Worksheet – Part V – PCSO	26
VIII.	Child Support Worksheet – Part VI – Deviations and FCSO	29
IX.	Miscellaneous Provisions	36

I. Background

The Child Support Amendments of 1984 (PL 98-378), 42 U.S.C. §§ 653-669, in particular §667 and 45 C.F.R. § 302.56, are part of the federal law implementing Title IV-D of the Social Security Act which establishes the processes and procedures for the operation of a child support enforcement program in every state. These provisions require that states establish guidelines for setting child support award amounts. The Guidelines, which are rebuttable presumptions under federal and Tennessee law, must be applied by all persons in the state whose duty it is to set child support award amounts in all child support cases. In Tennessee, these requirements are implemented pursuant to T.C.A. §§36-5-101(e); 71-1-105(12), (16), and 71-1-132. Current Guidelines appear in Chapter 1240-2-4 of the Rules of the Tennessee Department of Human Services.

The Department of Human Services, after two years of study and public comment, elected to implement the Income Shares model to replace the existing Flat Percentage of income model. The Income Shares Child Support Guidelines became effective on January 18, 2005. Thereafter, the Department created an Advisory Committee, pursuant to 2005 Tenn. Pub. Acts 403, to study the new Guidelines and make recommendations for improvement. The Guidelines implemented on June 26, 2006, are a result of these recommendations. These Rules may be found at: <http://www.state.tn.us/sos/rules/1240/1240-02/1240-02-04.pdf>.

II. Calculation Tools

A. Worksheets – *Rule 1240-2-4-.08*

The Income Shares rules use two (2) Worksheets to calculate the parent's financial obligation for child support. Both parents in a case use the same Child Support Worksheet and Credit Worksheet. The use of the Worksheets promulgated by the Department is mandatory in order to ensure uniformity in the calculation of child support awards pursuant to the Rules. The completed Worksheets must be maintained as part of the official record of the tribunal either by filing them as exhibits to be kept in the tribunal's record or as attachments to the child support order.

1. Child Support Worksheet – *Rule 1240-2-4-.08(4)*

The Child Support Worksheet is used for calculating the child support obligation of both parents. The Child Support Worksheet requires information about the children for whom support is being set or modified, both parents' income, and the amount of support provided to a parent's other children not subject to the current order. The Worksheet is used to establish the percentage of income (PI) of each parent that determines the allocation of basic support and mandatory and certain other expenses. The Worksheet also requires information about the amount of parenting time each parent has with the child in order to determine whether adjustments to support amounts should be made for greater or lesser amounts of time spent with the children, and information about deviations that may be added to the presumptive child support order.

State of Tennessee – Child Support Worksheet

Part I. Identification

Indicate the status of each parent or Caretaker by placing an "X" in the appropriate column

Name of Mother:		PRP	ARP	SPLIT
Name of Father:				
Name of non-parent Caretaker:				
TCSSES case #:				
Docket #:				
Court name:				

Name(s) of Child(ren)	Date of Birth	Days with Mother	Days with Father	Days with Caretaker

Part II. Adjusted Gross Income

Use Credit Worksheet to calculate line items 1d and 1e

- 1** Monthly Gross Income
- 1a** Social Security benefit for child
- 1b** Self-employment tax paid
- 1c** Subtotal
- 1d** Credit for in-home children
- 1e** Credit for not-in-home children
- 2** Adjusted Gross Income (AGI)
- 2a** Combined Adjusted Gross Income
- 3** Percentage Share of Income (PI)

\$

Mother / Column A	Father / Column B	Non-parent Caretaker / Column C
\$	\$	
+	+	
-	-	
\$	\$	
-	-	
-	-	
\$	\$	

Part III. Parents' Share of BCSO

- 4** BCSO allotted to primary parent's household
- 4a** Share of BCSO owed to primary parent
- 5** Each parent's average parenting time
- 5a** Equal parenting time
- 6** Parenting time adjustment
- 7** Adjusted BCSO

\$	\$	\$
\$	\$	
\$	\$	
\$	\$	

Part IV. Additional Expenses		Mother / Column A	Father / Column B	Non-parent Caretaker / Column C
8a	Children's portion of health insurance premium	\$	\$	\$
8b	Recurring Uninsured Medical Expenses	\$	\$	\$
8c	Work-related childcare (payroll-deducted)	\$	\$	\$
8d	Work-related childcare (non-payroll-deducted)	\$	\$	\$
9	Total additional expenses	\$	\$	\$
10	Share of additional expenses owed	\$	\$	
11	Adjusted Support Obligation (ASO)	\$	\$	

** Reminder – Line 8d expenses are to be paid by the child's PRP or either parent in a 50-50 situation

Part V. Presumptive Child Support Order / Modification of Current Support		Obligation Column		
12	Presumptive Child Support Order (PCSO)	\$	\$	
* Enter the difference between the greater and smaller numbers from Line 11.				
	Low Income? _____ (N = 15% Y = 7.5%)			
	Current Order Flat % _____ (N / Y)			
Modification of Current Child Support Order	13a Current child support order amount for the obligor parent	\$	\$	
	13b Amount required for significant variance to exist	\$	\$	
	13c Actual variance between current order and PCSO / BCSO	\$	\$	

Part VI. Deviations and FCSSO				
14	Deviations (Specify):	\$	\$	
Deviations must be Substantiated by written findings in the Child Support Order	_____			

15	Final Child Support Order (FCSSO)	\$	\$	
16	FCSSO adjusted for SS benefit, Line 1a, Obligor's column	\$	\$	

Comments, Calculations, or Rebuttals to Schedule

Preparer's Use Only

Name: _____ Date: _____

Title: _____

2. Credit Worksheet: Reference – Rule 1240-2-4-.08(5)

The Credit Worksheet is used for recording information about the parent’s qualified other children in other child support cases and for determining the amount of credit allowed against a parent’s gross income for the support provided to a parent’s other children for whom that parent is legally responsible, whether the child lives primary in that parent’s home or outside that parent’s home.

State of Tennessee – Credit Worksheet

Part I. Identification

		PRP	ARP	SPLIT
Indicate the status of each parent or Caretaker by placing an “X” in the Appropriate column	Name of Mother:			
	Name of Father:			
	Name of non-parent Caretaker:			
	TCSES case #:			
	Docket #:			
	Court name:			

Part II. Other Children

		Column A	Column B
Parent Income Information	1 Applicable gross income for credit worksheet	\$	\$
In-Home Children	2 Below, list qualified children living in the parent's home (if none, skip to line 7):		
	Name(s) of Child(ren) for PRP Date of Birth Name(s) of Child(ren) for ARP Date of Birth		

	3 Number of qualified children living in the parent’s home	#	#
	4 Theoretical child support order (this parent’s income on CS Schedule for number of children from line 3)	\$	\$
	5 75% of theoretical child support order from line 4	\$	\$
Not-In-Home Children	6 Below, list qualified children not living in the parent's home (if none, skip to Part III):		
	Name(s) of Child(ren) for PRP Date of Birth Name(s) of Child(ren) for ARP Date of Birth		

	7 Number of qualified children not living in the parent’s home	#	#
	8 Average documented monetary support over last 12 months	\$	\$
	9 Theoretical child support order (this parent’s income on CS Schedule for number of children from line 7)	\$	\$
	10a 75% of theoretical child support order from line 9	\$	\$
	10b Allowable credit for not-in-home children	\$	\$

B. Child Support Schedule – Rule 1240-2-4-.09

The Child Support Schedule (“CS Schedule” or “Schedule”) is a chart which displays the Basic Child Support Obligation (BCSO) in dollar amounts which correspond to various levels of combined Adjusted Gross Income (AGI) of the children’s parents and the number of children for whom a child support order is being established or modified.

A column on the left margin of the page contains various levels of the parents’ monthly combined adjusted gross income in \$50.00 increments from \$150.00 to \$28,250 per month. At the top of the page moving left to right are columns headed by numbers of children to be supported in the case being determined. The cell at the intersection of the parents’ income with the number of children to be supported contains the basic child support obligation (BCSO) that is entered on the Child Support Worksheet. The BCSO is the amount of support allocated for the care of the child based upon the combined adjusted gross income of both parents, not just the income of the alternate residential parent or obligor parent. Each parent’s share of that obligation will, in the majority of cases, be a percentage of the full BCSO amount, although it could be the whole amount if the other parent is determined to have no countable income.

The obligation amounts from the CS Schedule make certain basic assumptions about the family income. [Rule 1240-2-4-.03(6)(b)] Each BCSO amount takes into consideration federal withholding and FICA contributions of both parents. Therefore, unlike the Flat Percentage model, no calculation for net income is necessary. (Remember, however, there may be a deduction from gross income for self-employment taxes in applicable cases.)

The Schedule assumes that all families with children incur certain basic child-rearing expenses and includes an average amount to cover these basic expenses for various levels of the parents’ combined income and number of children. Housing, food, and transportation comprise the bulk of these basic child-rearing expenses. Clothing, entertainment, and costs associated with a public school education are also included in the BCSO), but comprise a relatively small share of total expenditures. The amount spent on certain other expenses (such as the cost of the child’s health care) varies among households and, in some households are not incurred at all (such as childcare), therefore, these expenses are not included in the BCSO, and will be added to the obligation as appropriate to the case. The Schedule, and, therefore, the BCSO, does not include amounts for extraordinary educational expenses for private or special schooling or for other significant special expenses associated with the social, athletic or cultural development of the child. These may be included in the obligation by deviation.

III. Child Support Worksheet – Part I – Identification

A. General Information

1. Use only 1 worksheet for all child support calculations – including non-parent caretaker situations with both parents available.

2. When both parents are available in non-parent caretaker situations, all caretakers will be identified on the same Worksheet – the non-parent caretaker will be the PRP and both parents will be an ARP.
3. When both parents are available in non-parent caretaker situations, put both TCSES numbers and / or docket numbers on the same line – first the Mother’s information, then the Father’s information. The Worksheet can then be attached with the individual order in each parent’s case.

B. Caretaker Designations

1. Primary Residential Parent (PRP) – Rule 1240-2-4-.02(21)

The parent with whom the child resides fifty percent (50%) or more of the time – previously known as the “custodial parent.” Whenever present in a particular case, a non-parent caretaker will always be a child’s PRP.

2. Alternate Residential Parent (ARP) – Rule 1240-2-4-.02(4)

The parent with whom the child resides less than fifty percent (50%) of the time – previously known as the “non-custodial parent.”

3. Non-parent Caretaker (NPC) – Rule 1240-2-4-.02(6)

A primary residential parent who is not a child’s legal parent and, therefore, owes no duty of support to the child.

4. The PRP / ARP designations are consistent with the designations used in T.C.A. § 36-6-402 relative to Parenting Plans.

C. Definition of “Days” – Rule 1240-2-4-.02(10)

1. The amended definition requires more than twelve (12) hours within a twenty-four (24) hour period, rather than a calendar day, and presumes the necessary expenditure of resources. Rules will continue to allow either parent to argue that the PTA is not appropriate in their particular situation.
2. Judicial discretion will be permitted in appropriate situations. In extraordinary circumstances, as determined by the tribunal, partial days of parenting time may be considered for credit. An example of an extraordinary circumstance is a situation in which the ARP picks up the child after school three (3) or more days a week and keeps the child until eight (8) o’clock p.m. This three (3) day period of routinely incurred parenting time of shorter duration may be cumulated as a single day.

D. Parenting Type Situations

1. Standard Parenting – Rule 1240-2-4-.02(24)

- a. All of the children associated with the child support order in a particular case reside more than fifty percent (50%) of the time with the same parent (the PRP). Thus, the same parent is the PRP for all the children being supported by the order, and the other parent is the ARP for all children.
- b. So long as all children are spending less than fifty percent (50%) of the time with the ARP, the number of days spent with each individual child need not be the same.

Standard Parenting Example: (All children spend more than 50% of the time with the same parent.)

Child A = 350 days with PRP
Child C = 200 days with PRP

Child B = 250 days with PRP

2. Split Parenting – Rule 1240-2-4-.02(23)

- a. There must be at least two children, and at least one child must reside with each parent more than fifty percent (50%) of the time.
- b. Each parent's support obligation is calculated for the number of children who spend more than fifty percent (50%) of the time **with the other parent**. Rule 1240-2-4-.08(2)(c)2(ii)

Split Parenting Example: (Each parent is PRP for at least one child – Mother is PRP for Child A and Child C – Father is the PRP for Child B.)

Child A = 350 days with Mother
Child C = 200 days with Mother

Child B = 150 days with Mother

3. Equal or 50 / 50 Parenting Situations – Rules 1240-2-4-.02(12) & .04(7)(g)4

- a. The child spends exactly fifty percent (50%) of the time (or 182.5 days) with each parent.

- b. When combined with a standard parenting situation, the PRP for all other children will be deemed the PRP for the child in the 50 / 50 parenting situation.
- c. When combined with a split parenting situation, the Mother will be deemed the PRP for the child in the 50 / 50 parenting situation.

IV. Child Support Worksheet – Part II – Adjusted Gross Income

A. Columns – Rule 1240-2-4-.08(1)(d)

1. Column A is always used for Mother’s information.
2. Column B is always used for Father’s information.
3. Column C is always used for non-parent caretaker’s information. Column C will be utilized only in Parts III and IV of the Worksheet. Information previously appearing in Column C as a “total” has been either relocated or eliminated.

B. Line 1 – Monthly Gross Income – Rule 1240-2-4-.04(3)

1. When calculating child support obligations for children using the income shares model, the gross income of both parents will be used in the calculation. The definition of income is generally the same as under the Flat Percentage Guidelines; what has changed is that Income Shares requires consideration of the income of both parents.

Reminder – The gross income of non-parent caretakers and step-parents is not considered.

2. Excluded from gross income are: (1) child support payments received by either parent for the benefit of a child of another relationship; and (2) benefits received from means-tested public assistance programs. Rule 1240-2-4-.04(3)(c)

Example of calculating gross income:

PRP works making \$15 per hour and works 40 hr / wk
 $\$ 15 \times 40 = \$ 600 / \text{wk}$ $\$ 600 / \text{wk} \times 52 \text{ wk} / \text{yr} = \$ 31,200 / \text{yr}$
 $\$ 31,200 \div 12 \text{ months} = \$ \mathbf{2600}$ monthly gross income

ARP works making \$ 23.00 per hour and works 40 hr/wk
 $\$ 23 \times 40 = \$ 920 / \text{wk}$ $\$ 920 / \text{wk} \times 52 \text{ wk} / \text{yr} = \$ 47,840 / \text{yr}$
 $\$ 47,840 \div 12 \text{ months} = \$ \mathbf{3986.67}$ monthly gross income

3. Imputed Income – Rule 1240-2-4-.04(3)(a)2

a. Reasons to Impute Income

- (1) There is a finding of willful and voluntary unemployment or underemployment;
- (2) There is an absence of reliable evidence of income;
- (3) The parent owns non-income producing assets to which a reasonable rate of return can be imputed – new provision.

b. Willful and Voluntary Unemployment or Underemployment

When parents are living together, their choices are made jointly. Together they may decide one parent will take a lower paying job to take occupational training, or spend more time at home, or fulfill some other need, and the family reduces expenses, or the other parent increases income to meet the needs of the family. When parents are living separately, those choices are seldom made jointly. One parent's choice can have a devastating impact on the financial support available for the children. Many times the state will have to support the children through food stamps, Families First (TANF) benefits, or TennCare when one parent voluntarily reduces income.

While the Guidelines do not presume that any parent is willfully and/or voluntarily underemployed or unemployed, every parent is responsible for his/her deliberate choices, for example, to leave employment for a lower paying job or a part-time job, or to attend classes, or to engage in behavior that will cause the parent to lose employment. [Rule 1240-2-4-.04(3)(a)2(ii)] If the deliberate choice is not reasonable in light of the parent's existing obligation to support his/her children and does not benefit the children, the tribunal can assess the parent's ability to earn and set child support based on that assessment, rather than on the actual lower income that exists as a result of the parent's choices. [Rule 1240-2-4-.04(3)(a)2(ii)(II)] The determination of the reasonableness of the occupational choice is not limited to those motivated by an intent to avoid or reduce the payment of child support, but can be based on any intentional choice or act that affects an obligor parent's income. [Rule 1240-2-4-.04(3)(a)2(ii)(I)] Under these Rules, a parent who is incarcerated is deemed to have intentionally chosen behavior which results in the inability to adequately support that parent's children. On the other hand, the decision of a parent to attend additional classes which, within a reasonable period of time, will result in a significant increase in the ability to provide support, and will benefit the children, would likely not be viewed as having become underemployed under that set of facts.

If the parent's choices result in reduced income and inability to support the parent's child in a reasonable manner given the parent's skills, education, and training, then the tribunal should calculate the parent's income based on evaluation of those factors and set support on the income the parent should be earning.

Tennessee also has a public policy to support the armed forces of the United States. Therefore, when an individual enlists, is drafted, or is activated from a Reserve or National Guard unit, for full-time service in the Armed Forces of the United States, that choice or requirement alone shall not render the individual subject to imputed income for voluntary unemployment or underemployment if, as a result, the parent's income is reduced due to the choice of enlistment or because of the involuntary activation or conscription. *[Rule 1240-2-4-.04(3)(a)2(ii)(III)]*

Because the income of the custodial parent is relevant under the Income Shares model, **an analysis to determine willful and voluntary unemployment or underemployment also applies to the custodial parent**, including custodial parents receiving Families First Benefits. Some of these parents may actually be willfully and voluntarily unemployed or underemployed and, in such cases, should be subject to the establishment of income if the analysis warrants that.

However, it is the position of the Department that custodial parents should not be deemed willfully and voluntarily unemployed or underemployed based solely on the receipt of Families First Benefits.

As with every other parent, the tribunal should make a case-by-case determination. In so doing, the Rules provide for consideration of the parent's education and training as well as efforts to obtain additional education or training that may, ultimately, enhance the standard of living of the child. Parents on Families First should, generally, not be considered willfully and voluntarily unemployed or underemployed whose record in the program and work experience do not demonstrate recurring receipt of Families First benefits without good reason, and the parent is complying with a Personal Responsibility Plan.

Neither should a stay-at-home parent automatically be deemed to be willfully and voluntarily unemployed or underemployed. In making this determination, a parent's education, prior work experience, and circumstances prior to separation or divorce should be considered.
Rule 1240-2-4-.04(3)(a)2(iii)(III)

c. **Reliable Evidence of Income** – *Rule 1240-2-4-.04(3)(a)2(iv)*

In an initial determination to set support, **income may be imputed** to individual parents who fail or refuse to produce reliable evidence of income where the tribunal has no reliable evidence of income or income potential. Because the income of both parents is relevant under Income Shares, *both parents are equally subject to having income imputed*. For this reason, and because the median annual gross income for males in Tennessee is \$9380 more than for females in Tennessee, the Department determined that gender-specific information was more appropriate than an average median income figure. The median gross income figures have been obtained from the 2004 Census data.

- (1) Annual median gross income for the Tennessee female population is \$ 26,989.
- (2) Annual median gross income for the Tennessee male population is \$ 36,369.

C. **Adjustments to Gross Income**

1. **Line 1a**

- a. Title II SS benefits paid to a child on a parent’s account are included in the income of the applicable parent (ultimately, to be subtracted from that parent’s support obligation). Rule changes make this provision expressly applicable to both parents. *Rule 1240-2-4-.04(3)(a)5*
- b. Title II SS benefits paid to a child on account of the child’s own disability are not included as income to either parent. *Rule 1240-2-4-.04(3)(c)3*

2. **Line 1b** – If self-employed, the parent can deduct from gross income any amount of self-employment tax actually paid. *Rule 1240-2-4-.04(4)*

3. **Qualified Other Child Credits** – *Rule 1240-2-4-.04(5)*

- a. A child is an “other child” if not subject to the child support order under consideration.
- b. A child is “qualified” if a parent is legally responsible for, and is actually supporting the child.

The parent seeking credit must submit proof of the legal relationship between the parent and the child, **and** proof of support.

- (1) Proof of the legal relationship could include a tribunal order, a valid Voluntary Acknowledgment of Paternity, or a birth certificate showing the parent's name. Proof is not, however, limited to these documents.
 - (2) Proof of support does not include payment on arrears.
- c. Each minor child of a parent is counted for either support or credit **in only one category**. In other words, a child can only be one of the following:
- (1) The subject of the order before the court, or
 - (2) A qualified other child living 50% or more of the time in the parent's home, or
 - (3) A qualified other child living in the parent's home less than 50% of the time.
- d. Both parents are entitled to a credit against gross income for any support provided to a parent's "qualified other children."

The amount of the credit is calculated on the Credit Worksheet by first calculating a theoretical support order. The only deduction used in calculating the theoretical order is for any self-employment taxes paid by the parent. **No other deductions or adjustments are made to the gross income of the party claiming the credit for purposes of calculating the theoretical order.** *Rule 1240-2-4-.04(5)(d)2*

- e. Income of, and support provided by, the child's other parent is not considered when calculating a credit for a qualified other child.
- f. **Line 1d – Credit for "In-Home" Children**
- (1) If the qualified other child for whom the parent is claiming credit resides **fifty percent (50%) or more** of the time with that parent, proof of residence with the parent creates a presumption of support for the child, such as in the situation where a parent has re-married and has additional children by that marriage that are living with the parent. No separate proof of amounts paid for the support of "other" children living with the parent is required. **Credit is calculated on Lines 2 – 5 of the Credit Worksheet.**
 - (2) The amount of the credit is 75% of a theoretical support order.

Credit for “In-Home” Children: (proof of legal responsibility and residence with the parent 50% or more of the time – actual support is assumed)

Theoretical order = \$ 500 / month

\$ 500 x 75% = \$ 375 / month

Credit is \$ 375

g. Line 1e – Credit for “Not-In-Home” Children

- (1) Support paid for all qualified other children residing less than fifty percent (50%) of the time with the parent claiming the credit is included in this calculation, including support paid pursuant to pre-existing and subsequent support orders. The parent must provide proof of legal relationship and proof of financial support – for example, cancelled checks payable to the PRP or copies of cancelled checks, clerk’s record of child support payments, DHS record of child support payments. **Credit is calculated on Lines 6 – 10b of the Credit Worksheet.**
- (2) The credit is the total amount of support provided to all children living less than 50% of the time with the parent claiming the credit, up to the maximum of 75% of the theoretical support order. In other words, the credit for Line 1e is **the lesser of** the total amount paid or 75% of the theoretical order.
- (3) The total amount of support provided **may** include in-kind remuneration reduced to a dollar figure approved by the court in the case of the qualified other child or affirmed by the receiving parent in that case. *Rule 1240-2-4-.04(5)(e)2(ii)(III)*

Children not in the home: (proof of legal relationship and financial support)

Example 1:

Theoretical order = \$ 500 monthly

\$ 500 x 75% = \$ 375 monthly

Actual financial support = \$ 200 monthly

Credit is \$ 200 monthly because the actual support is less than the theoretical order.

Example 2:

Theoretical order = \$ 300 monthly

\$300 x 75% = \$ 225 monthly

Actual financial support = \$ 412 monthly

Credit is capped at \$ 225 monthly – actual support exceeds the theoretical order.

D. Line 2 – Adjusted Gross Income (AGI) – Rule 1240-2-4-.02(1)

1. Once a parent’s gross income has been determined and all credits applied, the subtotal is called the Adjusted Gross Income (AGI).
2. An amount is entered for each parent.

Example of adjustment to income (PRP):

Primary Residential Parent (PRP) gross monthly income	\$ 1950
Subtract self-employment tax	- 0
Subtract credit for “In-Home” children (1 child = \$ 412 x 75% = \$ 309)	- 309
Subtract credit for “Not-In-Home” children	- 0
Subtotal (Adjusted Gross Income for PRP)	\$ 1641

Example of adjustment to income (ARP):

Alternate Residential Parent (ARP) gross monthly income	\$ 3986.67
Subtract self-employment tax	- 0.00
Subtract credit for “In-Home” children (2 children = \$ 1027 x 75%)	- 770.25
Subtract credit for “Not-In-Home” children	- 0.00
Subtotal (Adjusted Gross Income for ARP)	\$ 3216.42

E. Line 2a – Combined Adjusted Gross Income – Rule 1240-2-4-.02(9)

1. This total is the sum of each parent’s individual adjusted gross income.
2. Since Column C has now been allocated for use by the non-parent caretaker, the amount of the combined adjusted gross income no longer appears in Column C but now appears in a space to the left of Column A.

F. Line 3 – Percentage of Income (PI) – Rules 1240-2-4-.02(19) & (22)

1. One of the basic concepts of Income Shares is that each parent’s pro-rata share of the combined adjusted gross income is used to allocate responsibility for payment of both the basic expenses as well as the additional expenses, *i.e.*, health care expenses, child care, recurring uninsured medical expenses, and, in the court’s discretion, also for allocation of extraordinary educational or special expenses.
2. Financial responsibility is allocated according to each parent’s percentage of income (PI).

Each parent’s PI is calculated by dividing the parent’s individual AGI by the combined AGI of both parents.

Example of each parent's PI

PRP's Adjusted Gross Income (see previous example)	\$ 1641
ARP's Adjusted Gross Income (see previous example)	+ \$ 3216
Combined Adjusted Gross Income (AGI)	\$ 4857

PRP's pro-rata share of total financial obligation	$\$ 1,641 \div \$ 4,857 = 34\%$ (PI)
ARP's pro-rata share of total financial obligation	$\$ 3,216 \div \$ 4,857 = 66\%$ (PI)

V. Child Support Worksheet – Part III – Parents' Share of BCSO

A. Line 4 – BCSO allotted to primary parent's household – Rule 1240-2-4-.08(2)(c)1

1. The full BCSO obtained from the CS Schedule is allocated to the household of the primary parent, whether that is the Mother, Father, or non-parent caretaker.
2. To determine the Basic Child Support Obligation (BCSO) for each parent, use the parents' *combined adjusted* gross income together with the number of children to be supported in the case being considered. Look on the **CS Schedule in Rule 1240-2-4-.09**. In the left column, find the combined adjusted gross income, move across the line to the column for the number of children to be supported. The number in the box where the income and the number of children intersect is the amount of the **total basic child support obligation** for both parents. Enter the BCSO on **Line 4 of the CS Worksheet** in the column of the primary parent.
3. If there is combined adjusted gross income on Line 2a greater than zero, then the minimum BCSO amount entered on Line 4 will be one hundred dollars (\$100). Deviation from this amount will be available in appropriate situations. *Rule 1240-2-4-.03(6)(a)4*

Example of determination of Basic Child Support Obligation:

PRP's Adjusted Gross Income (see previous example)	\$ 1,641
ARP's Adjusted Gross Income (see previous example)	+ \$ 3,216
Combined Adjusted Gross Income	\$ 4,857

Child Support Schedule shows for the Combined Adjusted Gross Income of \$ 4,857 a basic child support obligation for one child of: **\$ 815**

Rounding Rule – When the Combined Adjusted Gross Income falls between amounts shown in the Schedule, round up to the next amount of Combined Adjusted Gross Income. **Reference 1240-2-4-.04(6)(b)**

4. Line 4 is used for all parenting type situations, *i.e.*, standard, 50-50, split parenting, and non-parent caretakers.
 - a. In standard parenting, the amount will be placed in the column of the PRP. No amount will be entered in the ARP column.
 - b. **50 / 50 parenting situations**
 - (1) The amount will be placed in the Mother's column.
 - (2) If support is being calculated for a 50 / 50 parenting situation in conjunction with a standard or split parenting situation, the amount will be placed in the Mother's column unless the Father is the primary parent in the standard parenting situation.
 - c. In split parenting, an amount will be entered for each parent as a PRP.
 - d. If there is a non-parent caretaker associated with the case, the amount will always be entered in Column C.

B. Line 4a – Share of BCSO owed to primary parent – *Rule 1240-2-4-.08(2)(c)2*

1. This amount is the ARP's pro-rata share of the total BCSO entered on Line 4.
2. In standard parenting, the PRP's amount on this line will be zero.
3. In 50 / 50 parenting situations, the Mother's amount on this line will be zero.
4. In split parenting, an amount will be entered for each parent as an ARP.
5. If both parents are available in a non-parent caretaker situation, an amount will be entered for each parent.

PI calculation in a split parenting situation –

The amount entered on Line 4 for each parent as a PRP will be determined by cross-referencing on the Child Support Schedule the combined adjusted gross income of both parents with the number of children living with that parent more than 50% of the time.

The amount entered on Line 4a for each parent as an ARP will be that parent's PI from Line 3 multiplied by the BCSO amount entered on Line 4 for the other parent.

PI calculation in standard parenting situation –

From the example above, the BCSO amount that will be entered on Line 4 for the PRP is \$ 815. The ARP's share to be entered on Line 4a is \$ 815 x 66% or \$ 537.90.

C. Line 5 – Each parent's average parenting time – Rule 1240-2-4-.04(7)(b)4 & .08(2)(c)3

1. In standard parenting, the average parenting time for the ARP will include the children listed in Part I of the Worksheet, except for any children living with each parent 50% of the time.
2. In split parenting, the average parenting time for each parent will include all children for whom the parent is the ARP, except for any children living with each parent 50% of the time.

D. Line 5a – Equal parenting – Rule 1240-2-4-.04(7)(b)2, (b)4(ii), & .08(2)(c)4

To indicate the existence of a 50 / 50 situation, 182.5 shall be entered in the father's column, except in standard parenting situations in which the Mother is the ARP for all other children. In such cases, 182.5 will be entered in the Mother's column.

Example for standard parenting –

Child A spends 138 days with Mother (ARP), Child B spends 86 days, and Child C Spends 182.5 days. The Mother average parenting time is $138 + 86 = 224 / 2 = 112$. For the 50 /50 child, 182.5 will be entered on Line 5a in the Mother's column.

Example for split parenting –

Child A spends 138 days with Mother, Child B spends 86 days with Mother, Child C spends 182.5 days with Mother, and Child D spends 222 days with Mother. The Mother's average parenting time is $138 + 86 = 224 / 2 = 112$. The Father's average parenting time is 143 ($365 - 222$). For the 50 / 50 child, 182.5 will be entered on Line 5a in the Father's column.

E. Line 6 – Parenting Time Adjustment (PTA) – Rule 1240-2-4-.04(7) & .08(2)(c)5

1. The amount of time a parent spends parenting a child is a factor to consider in the calculation of the amount of financial support that parent is obligated to provide. Under these Rules, the ARP's pro-rata share of the BCSO will be based upon his / her days of parenting time.
2. The amount of parenting time entered in Part I of the Child Support Worksheet is used to determine the amount of the parenting time adjustment.
3. **Adjustment for Decreasing Support – Rule 1240-2-4-.04(7)(g) & .08(2)(c)5(v)**
 - a. For more than standard visitation, the adjustment begins at 92 days. *Rule 1240-2-4-.04(7)(g)1*
 - b. A variable multiplier is applied to the BCSO to calculate the additional expenses associated with the additional parenting time of the ARP. *Rule 1240-2-4-.04(7)(g)2*
 - c. Each parent is required to pay his / her pro-rata share of all child-rearing expenses in both households. The PTA is the PRP's pro-rata share of the ARP's child-rearing expenses. *Rule 1240-2-4-.04(7)(g)2*
 - d. The adjustment will result in a zero obligation for basic expenses when each parent has 182.5 days of parenting time and equal income.
 - e. The adjustment may result in a PRP obligation when the ARP has a large share of parenting time and the PRP has a larger share of the income. *Rule 1240-2-4-.04(7)(e)*
 - f. In 50 / 50 parenting situations, the adjustment will be placed in Father's column, except when combined with a standard parenting situation in which the Father is PRP for all other children. *Rule 1240-2-4-.04(7)(g)4*

Process for calculating parenting time credit –

$$2 / 182.5 = .0109589$$

$$.0109589 \times \text{No. of days of PT} = \text{variable multiplier (VM)}$$

$$\text{VM times BCSO} = \text{Adjusted BCSO}$$

$$\text{Adjusted BCSO} - \text{BCSO} = \text{ARP's additional child-rearing expenses}$$

$$\text{Times PRP's PI} = \text{PRP's share of additional expenses} = \text{PTA}$$

$$\text{ARP's share of BCSO} - \text{PTA} = \text{ARP's adjusted BCSO}$$

Example –

BCSO = \$ 1000	ARP's BCSO = 60% or \$ 600	PT = 140 days
$2 / 182.5 = .0109589$	$.0109589 \times 140 = 1.534246$	
$1.534246 \times 1000 = \$ 1534.25$	$\$ 1534.25 - \$ 1000.00 = \$ 534.25$	
$\$ 534.25 \times 40\% = \$ 213.70$	$\$ 600 - \$ 213.70 = \mathbf{\$ 386.30}$	

g. Non-Parent Caretaker Situations

The parenting time credit represents an adjustment of child-rearing expenses between two parents with a duty of support. Because an NPC does not have a duty of support, the parenting time credit discussed above cannot be applied between a parent and an NPC since child-rearing expenses cannot be allocated for payment by an NPC. Instead, the ARP's support obligation will be pro-rated over the 274 days (365 – 91) for which a parenting time credit is available and a percentage decrease specific to the ARP's actual parenting time will be applied to the ARP's share of the BCSO.

Process for calculating parenting time credit – NPC Situations

$1 / 274 = .0036496 =$ daily decrease percentage
Days of PT – 91 = applicable days for parenting time credit
Applicable days \times .0036496 = decrease percentage for actual PT
Decrease percentage \times Share of BCSO = PTA
Share of BCSO – PTA = ARP's Adjusted BCSO

Example –

BCSO = \$ 1000	ARP's BCSO = 60% or \$ 600	PT = 140 days
$140 - 91 = 49$ days	$.0036496 \times 49 = .1788304$	
$.1788304 \times \$ 600 = \$ 107.30$	$\$ 600 - \$ 107.30 = \mathbf{\$ 492.70}$	

4. Adjustment for Increasing Support – Rule 1240-2-4-.04(7)(h)

- a.** For less than standard visitation the adjustment begins at 68 days. *Rule 1240-2-4-.04(7)(h)1*

- b. The adjustment serves as a penalty – it does not represent an adjustment to child rearing expenses.

Process for calculating parenting time (PT) penalty –

69 – No. of days of PT
 Divided by 365 = multiplier
 Multiplier times parent’s share of BCSO = dollar increase
 Added to BCSO

Example –

ARP’s BCSO = \$ 600	PT = 64 days
69 days – 64 = 5 days	5 / 365 = .0136986
.0136986 x \$ 600 = \$ 8.22	\$ 8.22 + \$ 600 = \$ 608.22

- 5. No PTA is calculated for parenting time, actual or average, between 68 and 92 days.
- 6. When combined with another parenting situation, the PTA for a 50-50 parenting situation is calculated separately. *Rule 1240-2-4-.04(7)(b)4(ii)*

Process for separately calculating a PTA for a 50-50 situation –

2 children = 165 days with ARP
 1 child = 182.5 days with each parent
 BCSO = \$1200
 ARP’s PI = 60%

\$1200 / 3 (total number of children) = \$400 allocated to each child

\$800 = BCSO for 2 children with 165 days (\$1200 / 3 = \$400 x 2 = \$800).

\$400 = BCSO for 1 child with 182.5 days (\$1200 / 3 = \$400 x 1).

The \$800 BCSO and 165 days of parenting time will result in a PTA of \$258.63.

The \$400 BCSO and 182.5 days of parenting time will result in a PTA of \$160.

The total PTA entered on Line 6 would be **\$ 418.63.**

7. Parents may rebut the presumption that additional parenting time results in more expenses to an ARP or that less parenting time should be penalized. *Rule 1240-2-4-.04(7)(g)3 & Rule 1240-2-4-.04(7)(h)4*
8. **Reminder** – 182.5 days for each parent is not the same as split parenting - *Neal v Neal*, M2003-02703-COA-R3-CV, (Tenn. Ct. App. August 25, 2005), 2005 Tenn. App. LEXIS 453, confirms that child support must be addressed according to the Guidelines in every case - even with equal parenting time.

F. Line 7 – Adjusted BCSO – Rule 1240-2-4-.08(2)(c)5(vii)

1. The Adjusted BCSO is the parent’s share of the BCSO from Line 4a, plus or minus the amount of the parenting time adjustment entered on Line 6.
2. In standard parenting situations, the amount in the PRP’s column will be zero **unless** the PRP has a larger income and the ARP has a large share of parenting time, in which case support could be owed by the PRP to the ARP. *Rule 1240-2-4-.04(7)(e)*
3. In 50 / 50 parenting situations, the obligation for the BCSO will be owed by the parent with the larger PI on Line 3.
4. After application of the PTA, any negative amount shall be entered as a positive amount on Line 7 in the column of the other parent. *Rule 1240-2-4-.08(2)(c)5(viii)*
5. If the parents have the same income and parenting time, each parent’s share of the BCSO will be zero. There may still be a support obligation to provide for payment of any additional expenses included in the calculation in Part IV.

Process for calculating the Adjusted BCSO – Example One

ARP’s share of BCSO (Line 4a)	= \$ 600	ARP’s PT (Line 5)	= 140
PTA (Line 6)	= \$ 213.70	ARP’s PI	= 60%
Adjusted BCSO (Line 7)	= \$ 386.30		

Process for calculating the Adjusted BCSO – Example Two

ARP’s share of BCSO (Line 4a)	= \$ 400	ARP’s PT (Line 5)	= 160
PTA (Line 6)	= \$ 452.05	ARP’s PI	= 40%
Adjusted BCSO (Line 7)	= – \$ 52.05	→ ARP’s Adjusted BCSO	= 0
PRP’s Adjusted BCSO	= \$ 52.05		

VI. Child Support Worksheet – Part IV – Additional Expenses

A. General Information

1. There are certain expenses associated with the cost of rearing a child that are not included in the BCSO. The CS Schedule does not include the cost of the child's health insurance premium, work-related childcare costs, the children's uninsured medical costs, or extraordinary educational costs, because the actual cost of these expenses varies widely from household to household across the state. *Rule 1240-2-4-.03(6)(b)4(iii) & .04(8)(a)*
2. The Income Shares model requires inclusion in the final child support obligation actual amounts paid by the parents or the non-parent caretaker for the child's share of a health insurance premium, recurring uninsured medical expenses, and work-related childcare, as those expenses are calculated in Part IV of the Worksheet. *Rule 1240-2-4-.03(6)(d)(1) & .04(8)(a)1*
3. Expenses should be averaged over a one-year period in order to determine a monthly amount. *Rule 1240-2-4-.08(2)(d)*
4. Both parents and / or non-parent caretaker are permitted to claim actual expenses in appropriate categories.
5. Expenses paid by a non-parent caretaker shall be entered on the appropriate line in Column C. *Rule 1240-2-4-.04(8)(a)5*
6. Expenses paid by a stepparent are not included in the calculation. *Rule 1240-2-4-.04(8)(a)6*
7. If a parenting plan executed under Income Shares specifies that either the PRP or the ARP is to pay 100% of an expense, no amount for that expense should be entered in Part IV so that payment of the expense will not be pro-rated between the parents. The parent responsible for payment of the expense should be specified in the Comment Section of the Worksheet and in the order.

B. Line 8a – Children's Portion of Health Insurance Premium

1. The order must provide for the health care needs of the children by insurance, if available at reasonable cost, and by division between the parties of any uninsured medical expenses. *Rule 1240-2-4-.04(8)(b)1; T.C.A. § 36-5-101(h)(1) & (2); 42 U.S.C. § 652(f); 45 C.F.R. § 303.31(b)(1)*
2. No health insurance premium should be included on the Worksheet if coverage for the child supported by this order is provided by the parent at no additional cost. *Rule 1240-2-4-.04(8)(b)2*

3. **Reminder** - A TennCare premium is an applicable expense if actually being paid by a parent. **However**, TennCare does not fulfill a parent's responsibility to obtain insurance for a child if other insurance is available at reasonable cost. [T.C.A. § 36-5-101(h)] *Rule 1240-2-4-.04(8)(b)1 & 4*
4. If the parent is paying the *child's* health insurance premium by payroll deduction or by direct payment prior to the tribunal action, the parent will get credit for that payment so that the insurance coverage provided by that premium is not interrupted. Both payroll deduction and direct payment are permitted because most health insurance plans will not accept less than full payment from the responsible parent, and the Department does not want the coverage to be interrupted if interruption is not absolutely necessary.

C. Line 8b – Recurring Uninsured Medical Expenses

1. The place to enter these expenses has been relocated to Part IV of the Worksheet so the amount(s) will be automatically pro-rated between the parents according to each parent's PI. *Rule 1240-2-4-.04(8)(d)2*
2. For non-recurring expenses, the order must still specify how expenses will be paid by the parents. The default division of these expenses is according to each parent's PI. *Rule 1240-2-4-.04(8)(d)3*
3. The child's uninsured medical expenses include, but are not limited to, health insurance co-payments (including TennCare co-pays), deductibles, and such other costs as are reasonably necessary for orthodontia, dental treatment, asthma treatments, physical therapy, vision care, and any acute or chronic medical/health problem or mental health illness, including counseling and other medical or mental health expenses, that are not covered by insurance. *Rule 1240-2-4-.04(8)(d)1*

D. Line 8c – Work-related childcare (payroll deducted) – *Rule 1240-2-4-.04(8)(a)3*

If a parent is paying for a childcare expense through payroll deduction prior to the tribunal action, he / she may continue to do so and will receive reimbursement for the other parent's pro-rata share of the expense.

E. Line 8d – Work-related childcare (non-payroll deducted) – *Rule 1240-2-4-.04(8)(c)4*

1. In standard parenting situations, the expense will be allocated for payment to the childcare provider by the PRP. The ARP will not receive credit against the child support obligation for direct payment by the ARP of a childcare expense. Instead, the ARP's pro-rata share of the expense will be included in the amount of the obligation.

2. In split parenting and 50-50 parenting situations, each parent may be allocated payment of the expense for children living in that parent's primary care.

F. Line 10 – Share of additional expenses owed

1. The amount entered on Line 10 shall be each parent's pro-rata share of the total additional expenses being paid by the other parent. *Rule 1240-2-4-.08(2)(d)7(i)*

Example of Calculation between Mother and Father:

	Mother	Father
Percentage of Income	40%	60%
Health Insurance		\$ 100
Uninsured Medicals	\$ 50	
Childcare – non payroll deducted	\$ 250	
 Total	 \$ 300	 \$100
Share owed	\$ 40*	\$ 180**

* \$100 paid by Father X Mother's 40% PI

** \$ 300 paid by Mother X Father's 60% PI

2. Non-Parent Caretaker Situations

- a. If only one parent is available to pay support, that parent is responsible for payment of 100% of all additional expenses. *Rule 1240-2-4-.08(2)(d)7(iii)*
- b. If both parents are available to pay support, each parent is responsible for his / her pro-rata share of any amount paid by the other parent or non-parent caretaker. Payment of amounts owed by one parent to the other will be accomplished through adjustment of the obligations owed to the non-parent caretaker. *Rule 1240-2-4-.08(2)(d)7(ii)*

– *i.e.*, Father has a PI of 60% and pays \$100 for health insurance; Mother has a PI of 40% and pays \$250 for childcare. Mother will owe Father \$40 for her share of the premium; Father will owe Mother \$150 for his share of the childcare. Father's net obligation to Mother would be \$110 (\$150 - \$40). Father's obligation to the NPC would be increased by \$ 110, and Mother's obligation to the NPC will be decreased by \$110.

Example of Calculation between Mother, Father, and Non-Parent Caretaker:

	Mother	Father	NPC
Percentage of Income	40%	60%	
Health Insurance		\$ 100	
Uninsured Medicals			\$ 50
Childcare – non payroll deducted	\$ 250		
Total	\$ 250	\$100	\$ 50
Share owed	\$ < 90 >*	\$ 140**	

* \$ < 110 > plus \$ 20 owed to NPC for uninsured medical (\$ 50 X 40%)

** \$ 110 plus \$ 30 owed to NPC for uninsured medicals (\$ 50 X 60%)

G. Line 11 – Adjusted Support Obligation (ASO) – Rule 1240-2-4-.04(9)

1. The adjusted support obligation (ASO) is the basic child support obligation adjusted for parenting time, health care expenses, and work-related child care.
2. For each parent, the ASO is calculated by adding Line 10 (share of additional expenses owed) to Line 7 (share of BCSO). *Rule 1240-2-4-.08(2)(d)8*
3. For each parent, the amount represents an obligation owed to the other parent or to the non-parent caretaker.

ASO Calculation – Mother (PRP) and Father (ARP)

	Mother	Father
Line 7 – Adjusted BCSO	\$ 0	\$ 600
Line 10 – Share of Expenses Owed	\$ 40	\$ 180
Line 11 – ASO	\$ 40	\$ 780

ASO Calculation – Split – Mother, Father, and NPC

	Mother	Father	NPC
Line 7 – Adjusted BCSO	\$ 400	\$ 600	n/a
Line 10 – Share of Expenses Owed	\$ 40	\$ 180	n/a
Line 11 – ASO	\$ 440	\$ 780	n/a

VII. Child Support Worksheet – Part V – Presumptive Child Support Order (PCSO)

A. Line 12 – Presumptive Child Support Obligation (PCSO) – *Rule 1240-2-4-.04(11)*

1. Except in non-parent caretaker situations, the PCSO is the difference between the larger and smaller obligations on Line 11. The PCSO shall be entered on Line 12 in the column of the parent with the larger obligation on Line 11. *Rule 1240-2-4-.08(2)(e)1(i)*
2. In non-parent caretaker situations, the amount on Line 11 for each parent represents an obligation owed to the non-parent caretaker and is transferred to the parent’s column on Line 12.

PCSO Calculation – Standard / Split

	Mother	Father
Line 11 – ASO	\$ 40	\$ 780
Line 12 – PCSO		\$ 740

ASO Calculation – Mother, Father, and NPC

	Mother	Father	NPC
Line 11 – ASO	\$ 440	\$ 780	n/a
Line 12 – PCSO	\$ 440	\$ 780	

B. Modifications

1. To determine if a modification is possible, the Worksheet(s) should be completed through the PCSO on Line 12. *Rule 1240-2-4-.08(2)(e)2(i)*
2. **“Low-income” indicator** – *Rule 1240-2-4-.08(2)(e)2(ii)*
 - a. If the party requesting modification has been deemed low-income as established by the federal Poverty Guidelines - currently \$ 9645 - and, therefore, qualifies for the 7.5% significant variance, enter a “Y” in the blank provided. The Worksheet will then use 7.5% for purposes of calculating the significant variance. The Worksheet will apply a significance variance of 15% if the parent’s income is not at or below the poverty threshold.
 - b. The low income indicator has been relocated from the “Comment” section of the Worksheet.
3. **“Flat percentage” indicator** – *Rule 1240-2-4-.08(2)(e)2(iii)*

If the current order was calculated using the Flat Percentage Guidelines, enter a “Y” in the blank provided. The Worksheet will then determine the amount of the actual variance entered on Line 13c by comparing Line 13a with the obligation amount from Line 4a, rather than from Line 12, since the Flat Percentage Guidelines did not include consideration of additional expenses or parenting time.

4. The modification may be requested due to a change in income for either parent that causes a proposed order to meet the significant variance requirements. The birth or final adoption of a child shall constitute a substantial and material change of circumstances that will enable the tribunal to review the existing order. This review will determine if the addition of a child would result in a significant variance from the current ordered amount of support. *T.C.A. § 36-5-101(g)(4)(A)*

5. Definition of Significant Variance

- a. Orders initially established under the Flat Percentage Guidelines must comply with the heightened standard for modification under the Income Shares Guidelines. *Rule 1240-2-4-.05(2)(b)*
 - (1) A fifteen percent (15%) change in ARP’s gross income; **AND/OR**
 - (2) A change in the number of children who are the legal responsibility of the ARP; **AND/OR**
 - (3) A child being supported becoming disabled; **AND/OR**

- (4) The parties voluntarily agreeing to modify support in compliance with the Guidelines and submitting the completed worksheets with the agreed order; **AND**
 - (5) A fifteen percent (15%) variance between the existing order and the proposed order, unless the person seeking the modification meets the definition in the Guidelines of “low-income,” in which case the variance is seven and one half percent (7.5%).
- b. Orders initially established under Income Shares need only demonstrate a 15% (or 7.5%) difference between the amount of the current order and the proposed new order. *Rule 1240-2-4-.05(2)(c)*
 - c. If there is a change in the obligor parent, *i.e.*, the parent who paid a support obligation will now receive support, the significant variance requirement does not apply.
 - d. **Reminder** – The significant variance requirement does not apply to modifications to include payment of a child’s health care related expenses or to remove a deviation once the reason for the deviation no longer exists. *Rule 1240-2-4-.05(2)(a) & (5)*
 - e. **Reminder** – The amount of a prior or proposed deviation is not included as part of the child support obligation for purposes of determining the existence of a significant variance. *Rule 1240-2-4-.05(3)*

Example for variance:

The parent is currently paying \$749.00 per month for the support of one (1) child, the amount of proposed modification would have to be fifteen percent (15%) of \$749.

Current obligation	\$749.00
Multiplied by 15%	<u>x .15</u>
	\$ 112.35 required change (up or down)

\$749.00	
<u>-112.35</u>	
\$636.65	→ Proposed amount
	to permit decrease

\$749.00	
<u>+112.35</u>	
\$861.35	→ Proposed amount
	to permit increase

VIII. Child Support Worksheet – Part VI – Deviations and Final Child Support Order (FCSO)

A. Line 14 – Deviations – Rule 1240-2-4-.07

1. Deviations from the Guidelines may be appropriate for reasons where the tribunal finds it in the best interest of the child. In such cases the tribunal shall consider all of the income available to the parents and make a finding that child support more, or less, than the amount calculated by the Guidelines is, or is not, reasonably necessary for the support of the child in the case under consideration. Deviations must include written reasons for the deviation, the amount that would have been awarded under application of the Guidelines, and a written finding from the tribunal of how application of the Guidelines would be unjust or inappropriate in the particular case and how the best interest of the children is served by the deviation. *Rule 1240-2-4-.07(1)*

2. Provisions carried over from Flat Percentage Guidelines

a. Time-Related Travel Expenses – Rule 1240-2-4-.07(2)(c)

Where parenting time-related travel expenses are substantial due to the distance between the parents, the tribunal may consider a deviation.

b. Child in Legal Custody of Another Entity – Rule 1240-2-4-.07(2)(b)

A deviation may be permitted in cases where the child is in the legal custody of the Department of Children Services, the child protection or foster care agency of another state or territory or any other child-caring entity, public or private, where the permanency plan or foster care plan for the child has a goal of returning the child to the parent(s) and a valid reason exists for deviation from the presumptive support amount for this reason.

c. Extreme Economic Hardship – Rule 1240-2-4-.07(2)(e)

Extreme economic hardship, such as in cases involving extraordinary medical needs not covered by insurance or other extraordinary special needs for the child of a parent's current family may be a reason for deviation.

d. Statutory Threshold – Rule 1240-2-4-.07(2)(g)

(1) The threshold imposed by T.C.A. § 36-5-101(e)(1)(B), beyond which additional support must be justified, applies to the Income Shares guidelines. In the event the PCSO exceeds this statutory threshold, the parent receiving support has the opportunity / burden

to prove by a preponderance of the evidence that more support is reasonably necessary to provide for the needs of the child. If the burden is satisfied, additional amounts may be added to the PCSO as a deviation or may be placed in an educational or other trust fund to be used for the child's benefit.

(2) For rebuttal, the threshold monthly support amounts are:

One child = \$ 2100;
 Two children = \$ 3200;
 Three children = \$ 4100;
 Four children = \$ 4600; and
 Five or more children = \$5000.

Example of High-Income Threshold – standard parenting: (2 children)

	Mother	Father
Line 11 – ASO	\$ 23 *	\$ 3527
Line 12 – PCSO		\$ 3200

* Mother's pro-rata share of the health insurance premium paid by Father

Subtracting the smaller amount from the larger on Line 11, leaves Father with an obligation of \$3504. After application of the high-income threshold, the amount entered on Line 12 as the PCSO would be \$ 3200, subject to rebuttal / deviation.

Example of High-Income Threshold – split parenting: (each parent w/ one child)

	Mother	Father
Line 11 – ASO	\$ 983.15	\$ 3683
Line 12 – PCSO		\$ 2100

The difference between Mother's ASO and Father's ASO is \$2699.85. Father's PCSO is capped at \$2100 – the appropriate threshold since Father is ARP for only one child.

- (3) In NPC situations only, the statutory threshold could be applied to either or both obligations on Line 11. The threshold amount would then be transferred to Line 12.
- (4) If the burden of proof is not met, the FCSO will be the same as the threshold amount, absent deviation for another reason.

3. Provisions new to Income Shares Guidelines

a. Low-Income Persons – Rule 1240-2-4-.03(6)(a)4 & .07(2)(f)

A parent is considered to be a low income person if his/her annual adjusted gross income is at or below the federal poverty level for a single person as established by the federal Poverty Guidelines - currently \$ 9645. Under these circumstances, a deviation to the PCSO may be permitted in Part VI by the court pursuant to 1240-2-4-.07(2)(f), but a minimum BCSO amount of \$100 per month must first be established pursuant to 1240-2-4-.03(6)(a)4 if the parent has any non-exempt gross income greater than zero.

Example for low income deviation:

PRP has AGI of \$2500. ARP has AGI of \$750 per month (\$9,000 /year). The BCSO for one child is \$632. ARP's PI is 23%. ARP is employed to his full capability. PRP pays \$100 month for the child's health insurance coverage and \$150 month for after school by the care. ARP's PCSO is \$203 monthly, which the ARP claims is burdensome due to ARP's low income. Following a hearing on the issue, the tribunal agrees and grants a 5% deviation. The final child support amount is reduced to \$193.00.

b. Extraordinary Expenses – Rule 1240-2-4-.07(2)(d)

- (1) Accounting for extraordinary expenses that are specific to each family makes the child support obligation more expressly representative of the complete financial picture of the child's needs and the parent's ability to support the child.
- (2) Extraordinary Expenses are discretionary with the tribunal – whether or not the expense was incurred prior to separation.

(3) **Extraordinary Educational Expenses – Rule 1240-2-4-.07(2)(d)1**

Where the parents incur extraordinary educational expenses such as reasonable and necessary expenses associated with special needs education or private elementary and secondary schooling that are appropriate to the parents' financial abilities and to the lifestyle of the child if the parents and child were living together, this may be considered as a deviation. If a deviation is allowed, a monthly average of these expenditures shall be based on evidence of prior and/or anticipated expenses and added to the PCSO.

Example of Extraordinary Educational Expense:

The parents of one child have a combined monthly adjusted gross income of \$17,510. The PRP's PI is 20% or \$3502, and the ARP's PI is 80% or \$14,008. The BCSO is \$1561; the child's health insurance premium is \$300 / month; there is no work-related childcare. The ASO is \$1,488.

The child has been in private school for all grades, and is now entering the 10TH grade. Private school tuition, books, and fees cost \$1250 averaged as a monthly cost on a twelve (12) month basis. The tribunal grants the deviation for this extraordinary educational expense, requiring the ARP to pay 100% of the expense.

PCSO	= \$ 1488	Private Education	= \$ 1250
Total obligation:	= \$ 2738		

(4) **Special Expenses – Rule 1240-2-4-.07(2)(d)2**

- (a) Special expenses may include, but are not limited to, summer camp, music or art lessons, travel, school-sponsored extra-curricular activities, such as band, clubs, and athletics, and other activities intended to enhance the athletic, social or cultural development of a child, but do not otherwise qualify as mandated expenses like health insurance premium and work-related childcare costs.
- (b) A portion of the basic child support obligation is intended to cover average amounts of these special expenses incurred in the rearing of a child. Where special expenses **exceed seven percent (7%) of the monthly basic child support obligation**, then the tribunal shall consider additional amounts to add to the PCSO as a deviation.

Example of Special Expenses:

The BCSO for one child is \$1085. The child has sung with the school choir since elementary school and has now been accepted for the high school "Show Choir." This group travels in-state to various competitions, and stages 2 performances per school year. The cost is averaged over the school year to \$175 per month. PRP requests a deviation for special expenses.

BCSO: $\$ 1085 \times 7\% = \$ 75.95$ minimum amount to consider special expenses.

Actual expense: $\$ 175 / \$ 1085 = 16\%$ of BCSO

The special expense may be added to the PCSO as a deviation.

c. Hardship Deviation – Rule 1240-2-4-.07(2)(h)

- (1) This provision is available to reduce the impact of any hardship (either a substantial increase or decrease in the current support amount) that might result from application of the Income Shares Guidelines to orders initially established under the Flat Percentage Guidelines, unless application of this provision would seriously impair the ability of the PRP to maintain minimally adequate housing, food, and clothing for the children being supported by the order and/or to provide other basic necessities, as determined by the court.
- (2) **Reminder** – The Hardship Deviation is available to protect either parent against any significant change in the amount of the support obligation due to application of the Income Shares Guidelines.
- (3) The use of this deviation is available for any order initially established under the Flat Percentage Guidelines.
- (4) The Guidelines no longer limit availability of this deviation to the first modification under Income Shares.

Example for Hardship:

The parties have one child (age 14) together. Neither parent has other children. Based on a net income of \$9,988 (\$14,100 gross), the ARP is currently paying \$2,098.00 per month on an order established under the Flat Percentage Guidelines.

A Petition to Modify Support is filed by the ARP on February 1, 2005 because the ARP's gross income is now reduced to \$12,000 per month, and evidence has been offered to this effect. This is the first modification under the Income Shares model for an order that had been previously established under the Flat Percentage model. The ARP's current gross income of \$12,000 per month is a change in gross income of \$2,100 ($\$14,100 - \$12,000 = \$2,100$), or a 15% decrease in gross income from the time the previous order was set.

Therefore, the order is eligible to be considered for modification. The PRP's current gross is \$3,500 per month. The combined Adjusted Gross Income (AGI) is, therefore, \$15,500 ($\$12,000 + \$3,500$). Pursuant to the CS Schedule the BCSO for a combined AGI of \$15,500 is \$1,467 for one child.

The PRP's PI is 23% ($\$3,500 / \$15,500$), and the PRP's share of the BCSO is \$337 ($\$1,467 \times 23\%$)

The ARP's PI is 77% ($\$12,000 / \$15,500$), and the ARP's share of the BCSO is \$1,130 ($\$1,467 \times 77\%$)

Current obligation is $\$2,098.00 \times 15\% = \$314.70 =$ minimum difference between the current order and the proposed new order required for modification.

The ARP's PCSO is calculated as follows: \$1,130 (BSCO) minus \$46 (Mother's 23% of \$200 health insurance premium paid by Father) = \$1084.

The difference between the proposed order and the current order = a **DECREASE** of \$1,014 ($\$2,098 - \$1,084 = \$1,014$) or a 48% decrease from the prior order entered under the Flat Percentage model, qualifying for a modification under the significant variance definition since 48% is greater than 15%.

The tribunal finds, however, that a 48% **reduction** in the obligation would be a **hardship** to the PRP, and for this reason the court decides to deviate from the presumptive guideline amount under the new Income Shares (\$1,084), and instead grants a downward modification of the prior order in the amount of \$209.80 (10%) which reduces the order to \$1,888 (instead of \$1,084). The court, therefore, has deviated **upward** from the Income Shares Guidelines by \$874 [$\$1,888$ (what was actually ordered) minus $\$1,014$ ($\$2,098 - \$1,084$, the amount of the full reduction that would have been ordered but for the deviation)]. This hardship deviation is available at any time for orders initially established under the Flat Percentage model.

For the next modification petition, the amount of the **upward** deviation \$874 ($\$1,888 - \$1,014$) granted by the court in this case is **not** included in calculating the amount of the variance between the existing and the proposed orders in the next modification request. The next variance would, instead, be calculated based upon ***\$1,014 (for either party) because the amount of the variance in a subsequent modification request is***

determined without consideration of the amount of the difference in the existing and the proposed order caused only by the \$874 deviation made under the existing order.

Otherwise, a subsequent downward modification could be requested and granted simply due to the amount of the deviation, which in this example was 43%, without any other change in the circumstances of the parties, such as a change in income or a change in the amount of support a parent is providing for a qualified other child.

4. Enter in the space provided on Line 14 the amount that is to be added to or subtracted from the obligation of the paying parent as a result of the deviation. This line is automated to add to or subtract from the obligation. The automation does not pro-rate an expense between the parents since the method for pro-ration is within the discretion of the court. The full amount of the expense, along with an explanation of the deviation, can be entered on the lines provided.
5. A deviation cannot be utilized to demonstrate a significant variance in a subsequent action for modification.

B. Line 15 – Final Child Support Order (FCSO)

If the tribunal deviates from the amount of the PCSO to account for extraordinary or special expenses, or for any other reason provided for in the Guidelines, the resulting support obligation after application of the deviations becomes the Final Child Support Order. **If there are no deviations**, the amount of the PCSO will be the same as the Final Child Support Order.

C. Line 16 – FCSO adjusted for Social Security benefit

1. Any amount entered on Line 1a and added to the gross income of the obligor parent is credited towards payment of the child support obligation and will be subtracted from the amount of the FCSO.
2. If the amount on Line 1a is smaller than the amount of the FCSO on Line 15, then the amount on Line 16 is the difference between Line 1a and Line 15. This is the amount the obligor must pay out of pocket.
3. If the amount on Line 1a is greater than the amount of the FCSO on Line 15, then the amount on Line 16 will be zero.

IX. Miscellaneous Provisions

A. Application of Income Shares Guideline Model – *Rule 1240-2-4-.01(2)(a)*

1. With the one exception mentioned below, the Child Support Guidelines **implemented on June 26, 2006**, shall be applicable in every judicial or administrative action to establish, modify, or enforce child support, whether temporary or permanent, whether the action is filed before or after the effective date of these rules, where a hearing which results in an order establishing, modifying, or enforcing support is held on or after **June 26, 2006**, the effective date of these rules.
2. A prior version of the Child Support Guidelines can be used to calculate a support obligation if the obligation was previously established or modified under a prior version and, upon appellate review, the Court of Appeals remands the case for the calculation of support under that prior version.

B. Order Requirements

1. All orders must state a specific dollar amount of support that is to be paid by the responsible party on a weekly, bi-weekly, semi-monthly, or monthly basis. The final child support order shall not be expressed as a percentage of the parent's income. *Rule 1240-2-4-.01(2)(c)2*
2. Agreed orders must be reviewed by the court to determine conformity with the Guidelines, or, if deviations are proposed, to review those and enter written findings in the support order stating the amount of the deviation, what the order would have been if there had been no deviations and why the deviation is appropriate for the child and the parties. *Rule 1240-2-4-.01(2)(b)1(i)*
3. Every order must also designate financial responsibility for the child's non-recurring uninsured medical expenses. The parents will divide these expenses according to each parent's PI, unless otherwise pro-rated by the tribunal. *Rule 1240-2-4-.04(8)(d)3*

C. Retroactive support

1. **Presumption of Retroactive Support to Birth, Separation or Abandonment Absent Deviation Criteria** – *Rule 1240-2-4-.06*

a. **Presumption Absent Deviation Criteria**

Unless the rebuttal provisions of T.C.A. §36-2-311(a)(11) or T.C.A §36-5-101(e) regarding paternity are established by clear and convincing evidence, then in cases where initial support is being set, a judgment must be entered to include monthly support for the child for all periods up to the

date of the order from the date of the child's birth, the date of separation or abandonment of the child and remaining spouse of the parties in a divorce or annulment.

Note: The provisions of T.C.A. § 36-2-311(a)(11)(C)(ii) prohibiting deviations in establishing retroactive support in the case of rape of the mother includes statutory rape — *See, State of Tennessee, ex rel. Latonya Campbell v. Thomas Conley, W2005-01842-COA-R3-JV, May 25, 2006.*

b. Deviations/Written Findings to Support Deviations

Deviations as described in the statutory criteria must include written justification for the deviation, the amount that would have been otherwise awarded, and a written finding from the tribunal of how application of the Guidelines would be unjust or inappropriate in the particular case and how the best interest of the children is served by the deviation. **See: CS Worksheet, Line 14.**

2. Method of Calculation – Rule 1240-2-4-.06(3)

- a.** Using the Income Shares Guidelines, calculate current support.
- b.** Using the Income Shares Guidelines, calculate the retro obligation on a separate worksheet –
 - (1)** Use an average of each parent's monthly income, calculated over a two-year period (unless the court directs otherwise), to determine the BCSO;
 - (2)** Multiply the ARP's share of the BCSO times the number of months in the retro period;
 - (3)** To this amount add the ARP's share of additional expenses incurred by the PRP during the retro period, *i.e.*, healthcare expenses, birth expenses, and other statutorily allowed expenses.

- 3.** The order should direct the ARP to pay the current support amount and to either pay the retroactive amount in a lump sum or to make specified payments on a weekly, bi-weekly, semi-monthly, or monthly basis to reduce the retro obligation in a reasonable time.