

Disability and Support

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When a Parent is Disabled

After a support complaint is filed, the Order states that if a doctor has determined that a medical condition affects your ability to earn income, you must obtain a Physician Verification Form. See Pa.R.C.P. 1910.27(b). This should be submitted at the conference.

At a non-record hearing, the Physician Verification form can be considered by the conference officer. Pa.R.C.P. 1910.29(b)(1)

At a record proceeding, the form must be served on the other party 20 days after the conference; the other party can file and serve objections within 10 days of service. The physician may testify and the trier-of-fact may allocate the cost of the physician's testimony. Pa.R.C.P. 1910.29(b)(2)



Receiving Social Security Disability

- At a non-record hearing, if a party is receiving Social Security disability, the party submits copies of the disability benefits instead of the Physician Verification Form. *See Pa.R.C.P. 1910.29(b)(1)*

SSI and Disability as Income

Under Section 4302, temporary and permanent disability benefits are included as “income” for the purposes of support.

Income includes Social Security disability benefits, Social Security retirement benefits, temporary and permanent disability benefits, workers’ compensation, and unemployment compensation. Pa.R.C.P. 1910.16-2(a)(6)

Supplemental Security Income (SSI) is not included as income available for support. Pa.R.C.P. 1910.16-2(b)(1)



Proving Disability

Is receiving Social Security Disability enough to prove a disability?

How often do parties object to verification forms?

Are there any differences in proving a disability when it is a long term versus short term disability?

Short vs Long Term Disability

Under 23 Pa.C.S. § 4321(3), parents have a duty to support a child with a physical or mental condition **existing at the age of majority** that prevents the child from being self-supporting. *Hanson v. Hanson*, 625 A.2d 1212 (Pa. Super. Ct. 1993)

“Income” includes temporary and permanent disability benefits for the purposes of support. 23 Pa.C.S. §4302



Temporary Disability and Modification

Modification of child support requires a “substantial change in circumstances.”
R.C. v. J.S., 957 A.2d 759, 763 (Pa. Super. Ct. 2008).

Gross monthly income is typically based on a six-month average of a party’s income. Pa.R.C.P. 1910.16-2(a)

Is a temporary disability a “substantial change?”



Children Receiving Disability Benefits

- “A parent must discharge his support obligation to his minor child where he can reasonably do so, regardless of the child’s assets. Where the parent’s resources are lacking, the court may consider a child’s assets if such expenditures would save the child from need or destitution and are in the child’s interest. **A parent may not evade his support obligation by depleting his child’s own assets, unless the parent is genuinely unable to provide for the child’s needs**” *Ricco v. Novitski*, 874 A.2d 75, 82 (Pa. Super. Ct. 2005).

- Disability *derivative* benefits can be considered as other household income under the deviation factors. *Silver v. Pinskey*, 981 A.2d 284 (Pa. Super. Ct. 2009). This is not the case when the child is receiving direct benefits because of their own disability.
- Where the parties had a 29 year old dependent child unable to support himself through gainful employment and Father would not have financial difficulty providing for his son, the Superior Court held that Father's support obligation should not have been reduced in consideration of the son's assets, specifically his special needs trust funded by his SSI benefits. *M.E.W. v. W.L.W.*, 240 A.3d 626 (Pa. Super. Ct. 2020).

The background features two large, overlapping, curved bands. The upper band is primarily light blue with a green gradient at its right end. The lower band is primarily light green with a blue gradient at its left end. Both bands have a soft, blurred, multi-layered appearance.

Post Majority Support



Post Majority Support

- In Pennsylvania, “the duty to support a child generally ceases when the child reaches the age of majority, which is defined as either eighteen years of age or when the child graduates from high school, whichever comes later.” *Style v. Shaub*, 955 A.2d 403, 408 (Pa. Super. Ct. 2008).
- When, however, the child has some mental or physical condition that prevents self-support or emancipation, the parental obligation continues under 23 Pa.C.S.A. § 4321(3). *Geiger v. Rouse*, 715 A.2d 454, 458 (Pa. Super. 1998)

Timing of Disability

- “There is a duty on parents to support a child that has a physical or mental condition, **which exists at the time the child reaches its majority**, that prevents the child from being self supporting.” *Geiger v. Rouse*, 715 A.2d 454, 458 (Pa. Super. Ct. 1998).

Is Post Majority Support Appropriate?

The test to determine if a post majority support order is appropriate is “whether the child is physically and mentally **able to engage in profitable employment** and whether employment is available to that child at a **supporting wage.**” *Hanson*, 625 A.2d at 1214.

The adult child has the burden of proof

A support hearing will be held, and all evidence will be presented to the hearing officer/judge to make a determination on emancipation before a support order is calculated.

Capable of Self Support

- An adult child who is disabled is still entitled to support if he or she is employable but is incapable of self-support. *Hanson v. Hanson*, 625 A.2d 1212 (Pa. Super. Ct. 1993).
- Attending college doesn't necessarily, "invalidate the finding of dependency requiring parental support." *Heitzman-Nolte v. Nolte*, 837 A.2d 1182, 1185 (Pa. Super. Ct. 2003).
- In Allegheny County, a trial court found that an adult disabled child qualifying for SSI was "strong evidence" that he was unable to support himself and become emancipated. *Dippold v. Dippold*, 2006 Pa. Dist. & Cnty. Dec. LEXIS 294, at *5 (Allegh. Ct. Com. Pl. 2006).

If the Child is Determined to be Unemancipated

- If the court determines the adult child is not emancipated, they can then move on to a support calculation using the support guidelines.
- The court can deviate at their discretion if the adult child has extraordinary needs.
- If the adult child receives benefits or is capable of work but not to the point of self-supporting these factors may also be considered as to the amount of support warranted from both parents.

Other Issues

What should you do if a child is no longer considered unemancipated and becomes capable of self-support?

What if an adult child is in a serious accident one day after graduation and is no longer capable of self support?

How has working from home impacted emancipation and the ability to self-support?



Unreimbursed Medical Expenses

Pa.R.C.P. 1910.16-6(c)

- “The trier-of-fact shall allocate the **obligee’s or child’s unreimbursed medical expenses**. However, the trier-of-fact shall not allocate unreimbursed medical expenses incurred by a party who is not owed a statutory duty of support by the other party. The trier-of-fact may require that the obligor’s expense share be included in the basic support obligation, paid directly to the health care provider, or paid directly to the obligee.” Pa.R.C.P. 1910.16-6(c).

What is a Medical Expense?



Medical expenses are unreimbursed medical expenses over \$250 per person. Pa.R.C.P. 1910.16-6(c)(1)(i).



“Medical expenses include insurance co-payments and deductibles and all expenses incurred for reasonably necessary medical services and supplies, including but not limited to surgical, dental and optical services, and orthodontia.” Pa.R.C.P. 1910.16-6(c)(1)(ii).

What's Excluded?

Medical expenses do not include cosmetic, chiropractic, psychiatric, psychological, or other services unless specifically directed in the order of court. Pa.R.C.P. 1910.16-6(c)(1)(iii). While these expenses are not required to be apportioned, the trier of fact may do so if it determines the expenses are reasonable and appropriate under the circumstances.

Unreasonable and unnecessary expenses.
D.H. v. R.H., 900 A.2d 922 (Pa. Super. Ct. 2006).

An ECG strip is shown on the left side of the slide, featuring a black line representing the heart's electrical activity on a grid of orange dots and lines. The strip is partially torn at the bottom edge.

Deviation from the Guidelines

- Unreimbursed medical expenses are allocated in proportion to the parties' net monthly income. Pa.R.C.P. 1910.16-6.
- However, unreimbursed medical expenses are a factor to consider when deviating from the guidelines. Pa.R.C.P. 1910.16-5(b)(6)

Limits on Unreimbursed Medical Expenses

- Annual limits can be imposed on unreimbursed medical expenses if the burden on the obligor would be excessive. Pa.R.C.P. 1910.16-6(c)(2).
- Each parent has an absolute duty to support his or her children, “even if it causes hardship or requires sacrifice.” *E.R.L. v. C.K.L.*, 126 A.3d 1004, 1006 (Pa. Super. Ct. 2015).

Purdon's Pennsylvania Statutes and Consolidated Statutes
Title 23 Pa.C.S.A. Domestic Relations (Refs & Annos)
Part V. Support, Property and Contracts
Chapter 43. Support Matters Generally (Refs & Annos)
Subchapter A. General Provisions (Refs & Annos)

23 Pa.C.S.A. § 4302

§ 4302. Definitions

Currentness

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Consumer reporting agency.” As defined in section 630(f) of the Federal Fair Credit Reporting Act ([Public Law 91-508](#), 15 U.S.C. § 1681a(f)).

“Department.” The Department of Public Welfare of the Commonwealth.¹

“Employer.” Includes an individual, partnership, association, corporation, trust, Federal agency, Commonwealth agency or political subdivision paying or obligated to pay income.

“Genetic tests.” Includes any blood or tissue testing processes used to confirm or exclude parentage.

“Government agency.” Any agency of the Commonwealth, including departments, boards, commissions, authorities, any political subdivisions or agency of such political subdivision or local or municipal authority or other local government unit or any court or related agency.

“Income.” Includes compensation for services, including, but not limited to, wages, salaries, bonuses, fees, compensation in kind, commissions and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; all forms of retirement; pensions; income from discharge of indebtedness; distributive share of partnership gross income; income in respect of a decedent; income from an interest in an estate or trust; military retirement benefits; railroad employment retirement benefits; social security benefits; temporary and permanent disability benefits; workers' compensation; unemployment compensation; other entitlements to money or lump sum awards, without regard to source, including lottery winnings; income tax refunds; insurance compensation or settlements; awards or verdicts; and any form of payment due to and collectible by an individual regardless of source.

“Judgment by operation of law.” A judgment which exists without the need for any ministerial act and which arises out of the existence of facts readily verifiable from the domestic relations section's records. The existence of a valid support order and nonpayment of the order, together, create the judgment.

“Labor organization.” The term shall have the meaning given the term in section 2(5) of the National Labor Relations Act (49 Stat. 449, 29 U.S.C. § 151 *et seq.*) and shall include an entity used by the organization and an employer to carry out requirements of an agreement between the organization and the employer as set forth in section 8(f)(3) of the National Labor Relations Act.

“Net income.” Gross income minus taxes and any other deductions mandated by the employer as a condition of employment.

“Obligee.” The term shall have the meaning given in section 7101(b) (relating to short title of part and definitions).

“Obligor.” The term shall have the meaning given in section 7101(b) (relating to short title of part and definitions).

“Order of support.” Includes assistance imposed or imposable by law or by any court order or by an agency administering a State Title IV-D program, whether temporary, final or subject to modification and whether incidental to a proceeding for divorce, separate maintenance, action for failure to support a child born out of wedlock or otherwise. The term includes an order for the support and maintenance of a child, including a child who has attained the age of majority, or for the parent with whom the child is living which provides for monetary support, health care, arrearages or reimbursement and which may include related costs and fees, interest and penalties, income withholding, attorneys' fees and other relief.

“Overdue support.” Support which is delinquent under a payment schedule established by the court.

“Past due support.” Support included in an order of support which has not been paid.

“State disbursement unit.” The organizational unit established within the Department of Public Welfare responsible for collecting and disbursing support as provided in section 4374 (relating to State disbursement unit).

“Support.” Care, maintenance and financial assistance.

Credits

1985, Oct. 30, P.L. 264, No. 66, § 1, effective in 90 days. Amended 1988, March 25, P.L. 296, No. 35, § 1, imd. effective; 1993, July 2, P.L. 431, No. 62, § 1, imd. effective; 1996, April 4, P.L. 58, No. 20, § 3, imd. effective; 1996, Oct. 16, P.L. 706, No. 124, § 3, effective in 60 days; 1997, Dec. 16, P.L. 549, No. 58, § 1.1, effective Jan. 1, 1998; 1998, Dec. 15, P.L. 963, No. 127, § 1, imd. effective.

Footnotes

1 Now Department of Human Services; see 62 P.S. § 103.

23 Pa.C.S.A. § 4302, PA ST 23 Pa.C.S.A. § 4302

Current through 2023 Regular Session Act 32. Some statute sections may be more current, see credits for details.

Pa. R.C.P. No. 1910.16-2

State Court Rules current with amendments October 1, 2023. Local federal district and bankruptcy court rules and ECF documents are current with amendments received through August 15, 2023. All other local federal district and bankruptcy court materials are current with amendments received through June 1, 2023. Local Court Rules are current with amendments received through December 1, 2022

PA - Pennsylvania Local, State & Federal Court Rules > PENNSYLVANIA RULES OF CIVIL PROCEDURE > ACTIONS FOR SUPPORT

Rule 1910.16-2. Support Guidelines. Calculation of Monthly Net Income

Generally, the basic child support, spousal support, or alimony *pendente lite* obligation is based on the parties' monthly net incomes.

(a) Monthly Gross Income. Monthly gross income is ordinarily based on at least a six-month average of a party's income. The support law, [23 Pa.C.S. § 4302](#), defines the term "income" and includes income from any source. The statute lists many types of income including, but not limited to:

- (1) wages, salaries, bonuses, fees, and commissions;
- (2) net income from business or dealings in property;
- (3) interest, rents, royalties, and dividends;
- (4) pensions and all forms of retirement;
- (5) income from an interest in an estate or trust;
- (6) Social Security disability benefits, Social Security retirement benefits, temporary and permanent disability benefits, workers' compensation, and unemployment compensation;
- (7) alimony if, in the trier-of-fact's discretion, inclusion of part or all of it is appropriate; and

Note: In determining the appropriateness of including alimony in

gross income, the trier-of-fact shall consider whether the party receiving the alimony must include the amount received as gross income when filing federal income taxes. If the alimony is not includable in the party's gross income for federal income tax purposes, the trier-of-fact may include in the party's monthly net income the alimony received, as appropriate. See Pa.R.C.P. No. 1910.16-2(c)(2)(ii).

Since the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's gross income must also vary. For example, if the obligor is paying \$ 1,000 per month in alimony for the express purpose of financing the obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if alimony is intended to finance the obligee's general living expenses, inclusion of the alimony as income is appropriate.

- (8)** other entitlements to money or lump sum awards, without regard to source, including:
- (i)** lottery winnings;
 - (ii)** income tax refunds;
 - (iii)** insurance compensation or settlements;
 - (iv)** awards and verdicts; and
 - (v)** payments due to and collectible by an individual regardless of source.

Note: The trier-of-fact determines the most appropriate method for imputing lump-sum awards as income for purposes of establishing or modifying the party's support obligation. These awards may be annualized or averaged over a shorter or longer period depending on the case's circumstances. The trier-of-fact may require all or part of the lump sum award escrowed to secure the support obligation during that period.

The trier-of-fact shall not include income tax refunds in a party's income, if the trier-of-fact factored in the tax refund when calculating the party's actual tax obligation and monthly net income.

(b) Treatment of Public Assistance, SSI Benefits, Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement and Foster Care Payments.

(1) Public Assistance and SSI Benefits

. Neither public assistance nor Supplemental Security Income (SSI) benefits shall be included as income for determining support.

(2) Child's Social Security Derivative Benefits.

- (i)** If a child is receiving Social Security derivative benefits due to a parent's retirement or disability:
 - (A)** The trier-of-fact shall determine the basic child support obligation as follows:
 - (I)** add the child's benefit to the monthly net income of the party who receives the child's benefit;
 - (II)** calculate the parties' combined monthly net income, including the child's benefit;
 - (III)** determine the basic child support obligation set forth in the **Pa.R.C.P.** No. 1910.16-3 schedule; and
 - (IV)** apportion the basic child support obligation between the parties based on the party's percentage of the combined monthly net income.
 - (B)** If the obligee receives the child's benefit, the trier-of-fact shall deduct the child's benefit from the basic child support

obligation of the party whose retirement or disability created the child's benefit.

- (C) If the obligor receives the child's benefit, the trier-of-fact shall not deduct the child's benefit from the obligor's basic child support obligation, even if the obligor's retirement or disability created the child's benefit. To illustrate for the parties the impact of the obligor receiving the benefit instead of the obligee, the trier-of-fact shall provide the parties with two calculations theoretically assigning the benefit to each household.
 - (D) The trier-of-fact shall allocate the expenses in Pa.R.C.P. No. 1910.16-6(a)-(e) based on the parties' monthly net incomes without considering the child's benefit.
 - (E) In equally shared custody cases, the party with the higher monthly net income, excluding the child's benefit, is the obligor.
- (ii) If a child is receiving Social Security derivative benefits due to a parent's death, the trier-of-fact shall determine the surviving parent's basic child support obligation as follows:
- (A) The non-parent obligee's monthly net income shall include only those funds the obligee is receiving on the child's behalf, including the Social Security derivative benefit.
 - (B) If the surviving-parent obligor receives the Social Security derivative benefit, the benefit shall be added to the parent's monthly net income to calculate child support.

(3) Foster Care Payments

- . If a party to a support action is a foster parent or is receiving payments from a public or private agency for the care of a child who is not the party's biological or adoptive child, the trier-of-fact shall not include those payments in the party's monthly net income for purposes of calculating child support for the foster parent's or other caretaker's biological or adoptive child.

Example 1. The obligor has monthly net income of \$ 2,000. The obligee's monthly net income is \$ 1,500 and the obligee, as primary custodial parent of the parties' two children, receives \$ 700 per month in Social Security derivative benefits on behalf of the children as a result of the obligor's disability. Add the children's benefit to the obligee's income, which now is \$ 2,200 per month. At the parties' combined monthly net income of \$ 4,200, the basic child support obligation for two children is \$ 1,372. As the obligor's income is 48%

of the parties' combined monthly net income, the obligor's preliminary share of the basic child support obligation is \$ 659. However, because the obligor's disability created the children's Social Security derivative benefits that the obligee is receiving, the obligor's obligation is reduced by the amount of the benefit, \$ 700. As the support obligation cannot be less than zero, the obligor's basic child support obligation is \$ 0 per month. If it were the obligee's disability that created the benefit, the obligor's basic child support obligation would remain \$ 659. If the obligor were receiving the children's benefit as a result of the obligor's retirement or disability, the obligor's monthly net income would include the amount of the benefit and total \$ 2,700, or 64% of the parties' combined monthly net income. The obligor's share of the basic child support obligation would then be \$ 878 and would not be reduced by the amount of the children's benefit because the obligor, not the obligee, is receiving the benefit. Therefore, the obligor's basic child support obligation is less if the obligee is receiving the benefit created by the obligor.

Example 2. Two children live with Grandmother who receives \$ 800 per month in Social Security death benefits for the children as a result of Father's death. Grandmother also receives \$ 500 per month from a trust established by Father for the benefit of the children. Grandmother is employed and earns \$ 2,000 net per month. Grandmother seeks support from the children's mother, who earns \$ 2,000 net per month. For purposes of calculating Mother's basic child support obligation, Grandmother's income will be \$ 1,300, the amount she receives on the children's behalf in Social Security derivative benefits and the trust income. (If Mother were receiving the benefit on the children's behalf, the benefit would be added to Mother's monthly net income and would be \$ 2,800. Grandmother's monthly net income would be \$ 500.) Therefore, Mother's and Grandmother's combined monthly net income totals \$ 3,300. The basic child support obligation at the \$ 3,300 monthly net income level for two children is \$ 1,137. As Mother's monthly net income of \$ 2,000 is 61% of the parties' combined monthly net income of \$ 3,300, Mother's basic child support obligation is \$ **694**. Since Mother's retirement or disability did not generate the

child's derivative benefit, the benefit amount is not subtracted from Mother's basic child support obligation, and Mother owes Grandmother \$

694. If Grandmother was not receiving the children's derivative benefits or trust income, Grandmother's monthly net income for purposes of calculating Mother's basic child support obligation would be zero, and Mother would pay 100% of the basic child support obligation because Grandmother has no duty to support the children.

Note: Care must be taken to distinguish Social Security from Supplemental Security Income (SSI) benefits. Social Security benefits are income pursuant to subdivision (a) of this rule.

(c) Monthly Net Income.

(1) Unless these rules provide otherwise, the trier-of-fact shall deduct only the following items from monthly gross income to arrive at monthly net income:

- (i)** federal, state, and local income taxes;
- (ii)** unemployment compensation taxes and Local Services Taxes (LST);
- (iii)** F.I.C.A. payments (Social Security, Medicare and Self-Employment taxes) and non-voluntary retirement payments;
- (iv)** mandatory union dues; and
- (v)** alimony paid to the other party.

(2) In computing a spousal support or alimony *pendente lite* obligation, the trier-of-fact shall:

- (i)** deduct from the obligor's monthly net income child support, spousal support, alimony *pendente lite*, or alimony amounts paid to children and former spouses, who are not part of this action; and
- (ii)** include in a party's monthly net income alimony *pendente lite* or alimony received from a former spouse that was not included in the party's gross income, as provided in subdivision (a).

Note: Since the reasons for ordering payment of alimony vary, the appropriateness of including it in the recipient's monthly net income must also vary. For example, if the obligor is paying \$ 1,000 per month in alimony for the express purpose of financing the obligee's college education, it would be inappropriate to consider that alimony as income from which the obligee could provide child support. However, if alimony is intended to finance the obligee's general living expenses, inclusion of the alimony as income is appropriate.

(d) Reduced Income or Fluctuating Earnings.

(1) Voluntary Income Reduction

. The trier-of-fact shall not downwardly adjust a party's net income if the trier-of-fact finds that:

- (i) the party's income reduction resulted from the party willfully attempting to favorably affect the party's basic support obligation;
- or
- (ii) the party voluntarily assumed a lower paying job, quit a job, left employment, changed occupations, changed employment status to pursue an education, or employment is terminated due to willful misconduct.

(2) Involuntary Income Reduction. Incarceration. Earnings Fluctuations.

- (i) Involuntary Income Reduction. The trier-of-fact shall adjust a party's monthly net income for substantial continuing involuntary decreases in income due to an employment situation over which the party has no control, including, but not limited to, illness, lay-off, termination, or job elimination.

- (ii) Incarceration.

- (A) Except as set forth in subdivision (d)(2)(ii)(B), the trier-of-fact shall:

- (I) consider an incarcerated party's income reduction as an involuntary income reduction as set forth in subdivision (d)(2)(i); and
- (II) adjust the incarcerated party's monthly net income accordingly.

- (B) Exception.

- (I) A party's incarceration shall not constitute an involuntary income reduction when the incarceration is due to support enforcement purposes or a criminal offense in which the party's dependent child or the obligee was the victim; and
- (II) The trier-of-fact makes a written finding that downwardly adjusting the incarcerated party's monthly net income would be unjust or inappropriate and, in a child support action, takes into consideration the child's best interest.

- (iii) Earnings Fluctuations. The trier-of-fact shall not adjust a party's monthly net income due to normal or temporary earnings fluctuations.

(3) Seasonal Employees. Generally, the trier-of-fact shall base a seasonal employee's monthly net income on a yearly average.

(4) Earning Capacity.

- (i)** When a party willfully fails to obtain or maintain appropriate employment, the trier-of-fact may impute to the party an income equal to the party's earning capacity.

 - (A)** Earning Capacity Limitation. The trier-of-fact:

 - (I)** shall not impute to the party an earning capacity that exceeds the amount the party could earn from one full-time position; and
 - (II)** shall determine a reasonable work regimen based upon the party's relevant circumstances, including the jobs available within a particular occupation, working hours and conditions, and whether a party has exerted substantial good faith efforts to find employment.
 - (B)** The trier-of-fact shall base the party's earning capacity on the subdivision (d)(4)(ii) factors.
 - (C)** After assessing a party's earning capacity, the trier-of-fact shall state the reasons for the assessment in writing or on the record.
 - (D)** When the trier-of-fact imputes an earning capacity to a party who would incur childcare expenses if the party were employed, the trier-of-fact shall consider reasonable childcare responsibilities and expenses.
- (ii)** Factors. In determining a party's earning capacity, the trier-of-fact shall consider the party's:

 - (A)** child care responsibilities and expenses;
 - (B)** assets;
 - (C)** residence;
 - (D)** employment and earnings history;
 - (E)** job skills;
 - (F)** educational attainment;
 - (G)** literacy;
 - (H)** age;
 - (I)** health;
 - (J)** criminal record and other employment barriers;
 - (K)** record of seeking work;
 - (L)** local job market, including the availability of employers who are willing to hire the party;
 - (M)** local community prevailing earnings level; and

(N) other relevant factors.

Note: See [45 C.F.R. § 302.56\(c\)\(1\)\(iii\)](#) regarding earning capacity factors.

(e) Net Income Affecting Application of the Support Guidelines.

(1) Low-Income Cases.

(i) Self-Support Reserve (SSR).

(A) The SSR is the minimum monthly net income reserved to the obligor to meet the obligor's basic needs.

(B) The SSR amount is \$ 1,063 per month.

(ii) Action for Child Support Only. When the obligor's monthly net income and the number of children in the action intersect in the Basic Child Support Schedule's shaded area as set forth in Pa.R.C.P. No. 1910.16-3, the trier-of-fact shall determine the obligor's basic child support obligation utilizing the lesser of the two calculated amounts from the following methodologies.

(A) The initial calculation is determined by using the obligor's monthly net income only, the schedule set forth in Pa.R.C.P. No. 1910.16-3, and the number of children.

(B) The second calculation is determined by using the parties' combined monthly net income and the basic child support formula in **Pa.R.C.P.** No. 1910.16-4(a).

(C) If the obligor's monthly net income is at or below the SSR, the trier-of-fact may award support only after consideration of the parties' actual financial resources and living expenses.

Example 1: The parties have two children. The obligee has monthly net income of \$ 2,500. The obligor has monthly net income of \$ 1,500, which falls into the shaded area of the schedule for two children. The initial calculation is made using only the obligor's monthly net income. The basic child support obligation for two children would be \$ **397**. The second calculation uses the parties' combined monthly net income. The parties' combined monthly net income is \$ 4,000. The basic child support obligation for two children is \$ 1,340. The obligor's proportionate share of the parties' combined monthly net income is 38% with a basic child support obligation of \$ 509. The obligor's basic child support obligation using only the obligor's monthly net income is less than the calculated amount using the

Pa. R.C.P. No. 1910.16-2

parties' combined monthly net income. As a result, the trier-of-fact should award the lesser amount, and the obligor's basic child support obligation is \$ 397.

(iii) Action for Spousal Support/Alimony *Pendente Lite* Only.

- (A)** After calculating the spousal support or alimony *pendente lite* obligation as provided in [Pa.R.C.P. No. 1910.16-4](#), the spousal support obligation shall not reduce the obligor's monthly net income below the SSR.
- (B)** If the obligor's monthly net income after subtracting the spousal support or alimony *pendente lite* obligation is less than the SSR, the trier-of-fact shall adjust the spousal support or alimony *pendente lite* obligation downward by an amount sufficient for the obligor to retain the SSR amount.

Example 2: The obligor has \$ 1,200 monthly net income, and the obligee has \$ 300 monthly net income. The formula in Pa.R.C.P. No. 1910.16-4(a)(1)(Part B) would result in a monthly spousal support obligation of \$ 276 ($(\$ 1,200 \times 33\% = \$ 396) \text{ minus } (\$ 300 \times 40\% = \$ 120)$ for a total of \$ 276)). Since this amount leaves the obligor with only \$ 924 per month, the trier-of-fact should adjust the support obligation so the obligor retains at least \$ 1,063 per month. Therefore, the spousal support obligation is \$ 137 per month ($\$ 1,200 - \$ 1,063$).

(iv) Action with Child Support and Spousal Support or Alimony *Pendente Lite*.

- (A)** The trier-of-fact shall calculate the spousal support or alimony *pendente lite* obligation as provided in [Pa.R.C.P. No. 1910.16-4](#).
- (B)** The trier-of-fact shall subtract the calculated spousal support or alimony *pendente lite* obligation from the obligor's monthly net income to determine the obligor's adjusted monthly net income.
- (C)** When the obligor's adjusted monthly net income and the number of children in the action intersect in the Basic Child Support Schedule's shaded area as set forth in [Pa.R.C.P. No. 1910.16-3](#), the trier-of-fact:
- (I)** shall not award spousal support or alimony *pendente lite*; and
- (II)** shall calculate child support as provided in subdivision

(e)**(1)**

(ii). *Example 3:* Obligor and obligee have monthly net incomes of \$ 2,000 and \$ 165, respectively, and have two children. Calculating spousal support under subdivision (e)(1)(iv)(A) results in a spousal support obligation of \$ 450 ($\$ 2,000 \times 25\%$ minus $\$ 165 \times 30\%$). Obligor's adjusted monthly net income ($\$ 2,000$ minus $\$ 450$) is \$ 1,550. Obligor's adjusted monthly net income of \$ 1,550 with two children is in the shaded area of the Basic Child Support Schedule, and as a result, the trier-of-fact shall not award spousal support. Instead, the trier-of-fact should award child support only as provided in subdivision (e)(1)(ii).

(D) When the obligor's monthly net income and the number of children in the action do not intersect in the Basic Child Support Schedule's shaded area as set forth in [Pa.R.C.P. No. 1910.16-3](#), the trier-of-fact shall calculate child support consistent with Pa.R.C.P. No. 1910.16-4.

- (I) The combined spousal support or alimony *pendente lite* and basic child support obligations shall not reduce the obligor's remaining monthly net income below the SSR.
- (II) If the obligor's monthly net income after subtracting the spousal support or alimony *pendente lite* and basic child support obligations is less than the SSR, the trier-of-fact shall adjust the support obligation downward by an amount sufficient for the obligor to retain the SSR amount.

(2) High-Income Cases. If the parties' combined monthly net income exceeds \$ 30,000, the trier-of-fact shall calculate child support, spousal support, or alimony *pendente lite* pursuant to [Pa.R.C.P. No. 1910.16-3.1](#).

Note: See [Hanrahan v. Bakker, 186 A.3d 958 \(Pa. 2018\)](#).

(f) Child Tax Credit. In order to maximize the total income available to the parties and children, the trier-of-fact may award, as appropriate, the federal child tax credit to the non-custodial parent, or to either parent in cases of equally shared custody, and require the other party to execute the waiver required by the Internal Revenue Code, [26 U.S.C. § 152\(e\)](#). The trier-of-fact shall consider the tax consequences associated with the federal child tax credit in calculating the party's monthly net income available for support.

EXPLANATORY COMMENT--2010

Subdivision (a) addresses gross income for purposes of calculating the support obligation by reference to the statutory definition at [23 Pa.C.S. § 4322](#). Subdivision (b) provides for the treatment of public assistance, SSI benefits, Social Security derivative benefits, and foster care payments.

Subdivision (c) sets forth the exclusive list of the deductions that may be taken from gross income in arriving at a party's net income. When the cost of health insurance premiums is treated as an additional expense subject to allocation between the parties under [Pa.R.C.P. No. 1910.16-6](#), it is not deductible from

gross income. However, part or all of the cost of health insurance premiums may be deducted from the obligor's gross income pursuant to [Pa.R.C.P. No. 1910.16-6\(b\)](#) in cases in which the obligor is paying the premiums and the obligee has no income or minimal income. Subdivision (c) relates to spousal support or alimony *pendente lite* awards when there are multiple families. In these cases, a party's monthly net income must be reduced to account for his or her child support obligations, as well as any pre-existing spousal support, alimony *pendente lite* or alimony obligations being paid to former spouses who are not the subject of the support action.

Subdivision (d) has been amended to clarify the distinction between voluntary and involuntary changes in income and the imputing of earning capacity. Statutory provisions at [23 Pa.C.S. § 4322](#), as well as case law, are clear that a support obligation is based upon the ability of a party to pay, and that the concept of an earning capacity is intended to reflect a realistic, rather than a theoretical, ability to pay support. Amendments to subdivision (d) are intended to clarify when imposition of an earning capacity is appropriate.

Subdivision (e) has been amended to reflect the updated schedule in [Pa.R.C.P. No. 1910.16-3](#) and the increase in the Self-Support Reserve ("SSR"). The schedule now applies to all cases in which the parties' combined monthly net income is \$ 30,000 or less. The upper income limit of the prior schedule was only \$ 20,000. The support amount at each income level of the schedule also has changed, so the examples in [Pa.R.C.P. No. 1910.16-2](#) were revised to be consistent with the new support amounts.

The SSR is intended to assure that obligors with low incomes retain sufficient income to meet their basic needs and to maintain the incentive to continue employment. When the obligor's monthly net income or earning capacity falls into the shaded area of the schedule, the basic child support obligation can be derived directly from the schedule in [Pa.R.C.P. No. 1910.16-3](#). There is no need to use the formula in [Pa.R.C.P. No. 1910.16-4](#) to calculate the obligor's support obligation because the SSR keeps the amount of the obligation the same regardless of the obligee's income. The obligee's income may be a relevant factor, however, in determining whether to deviate from the basic guideline obligation pursuant to [Pa.R.C.P. No. 1910.16-5](#) and in considering whether to require the obligor to contribute to any additional expenses under [Pa.R.C.P. No. 1910.16-6](#).

Since the schedule in [Pa.R.C.P. No. 1910.16-3](#) sets forth basic child support only, subdivision (e)(1)(ii) is necessary to reflect the operation of the SSR in spousal support and alimony *pendente lite* cases. It adjusts the basic guideline obligation, which would otherwise be calculated under the formula in [Pa.R.C.P. No. 1910.16-4](#), so that the obligor's income does not fall below the SSR amount in these cases.

Previously, the SSR required that the obligor retain at least \$ 748 per month. The SSR now requires that the obligor retain income of at least \$ 867 per month, an amount equal to the 2008 federal poverty level for one person. When the obligor's monthly net income is less than \$ 867, subdivision (e)(1)(iii) provides that the trier-of-fact must consider the parties' actual living expenses before awarding support. The guidelines assume that at this income level the obligor is barely able to meet basic personal needs. In these cases, therefore, entry of a minimal order may be appropriate. In some cases, it may not be appropriate to order support at all.

The schedule at [Pa.R.C.P. No. 1910.16-3](#) sets forth the presumptive amount of basic child support to be awarded. If the circumstances warrant, the trier-of-fact may deviate from that amount under [Pa.R.C.P. No. 1910.16-5](#) and may also consider a party's contribution to additional expenses, which are typically added to the basic amount of support under [Pa.R.C.P. No. 1910.16-6](#). If, for example, the obligor earns only \$ 900 per month but is living with his or her parents, or has remarried and is living with a fully-employed spouse, the trier-of-fact may consider an upward deviation under [Pa.R.C.P. No. 1910.16-5\(b\)\(3\)](#) or may order the party to contribute to the additional expenses under [Pa.R.C.P. No. 1910.16-6](#). Consistent with the goals of the SSR, however, the trier-of-fact should ensure that the overall support obligation leaves the obligor with sufficient income to meet basic personal needs and to maintain the incentive to continue working so that support can be paid.

Subdivision (e) also has been amended to eliminate the application of [Melzer v. Witsberger, 480 A.2d 991 \(Pa. 1984\)](#), in high-income child support cases. In cases in which the parties' combined net monthly

income exceeds \$ 30,000, child support will be calculated in accordance with the three-step process in [Pa.R.C.P. No. 1910.16-3.1\(a\)](#).

EXPLANATORY COMMENT--2013

The SSR has been increased to \$ 931, the 2012 federal poverty level for one person. Subdivision (e) has been amended to require that when the obligor's income falls into the shaded area of the basic child support schedule in [Pa.R.C.P. No. 1910.16-3](#), two calculations must be performed. One calculation uses only the obligor's income and the other is a regular calculation using both parties' incomes, awarding the lower amount to the obligee. The two-step process is intended to address those cases in which the obligor has minimal income and the obligee's income is substantially greater.

EXPLANATORY COMMENT--2015

The rule has been amended to provide that a party's support obligation will be reduced by the child's Social Security derivative benefit amount if that party's retirement or disability created the benefit and the benefit is being paid to the household in which the child primarily resides or the obligee in cases of equally shared custody. In most cases, payment of the benefit to the obligee's household will increase the resources available to the child and the parties. The rule is intended to encourage parties to direct that the child's benefits be paid to the obligee.

EXPLANATORY COMMENT--2021

The Self-Support Reserve is determined by the Federal Poverty Guideline for one person converted to a monthly amount -- currently \$ 1,063 -- for the year the Basic Child Support Schedule was derived.

Subdivision (e)

(1) addresses low-income cases and has been completely rewritten and identifies the current monthly Self-Support Reserve (SSR) amount as \$ 1,063. The SSR is the amount of the obligor's monthly net income that is reserved to meet the obligor's basic needs. Subdivisions (e)(1)(ii)-(iv) adjust the methodology for calculating support when the obligor's monthly net income is at or near the SSR amount.

Annotations

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Tax Law: Federal Income Tax Computation: Dependent & Personal Exemptions (IRC secs. 151-153)

Banking Law: Consumer Protection: Fair Debt Collection: General Overview

The contention of an ex-wife whose child support payment was modified and her wages attached, that the amount attached was confiscatory and exceeded the limit on garnishment set forth in the Consumer Credit Protection Act (Act), [15 U.S.C.S. §§ 1671-1677](#), was without merit; assessment of the mother's income for garnishment purposes above her actual earnings was proper under [Pa. R. Civ. P. 1910.16-2\(d\)\(1\)](#) and (4), because the assessment was based on her skills and experience, she had voluntarily gone to part-time work status and, thus, her earning capacity was properly used when determining the limit on garnishment under the Act. [Laws v. Laws, 2000 PA Super 248, 758 A.2d 1226, 2000 Pa. Super. LEXIS 2462 \(Pa. Super. Ct. 2000\)](#).

Civil Procedure: Judicial Officers: Hearing Officers

In support of an affirmance under *Pa. R. App. P. 1925*, the court properly adopted a hearing officer's recommendation as to the father's child support because he was properly assigned an earning capacity, as he had an obligation to support his child, he had made no effort to obtain any type of income which was tantamount to a voluntary reduction of income, and his prior employment included significant overtime. [C.R.W. v. T.R.G., 2015 Pa. Dist. & Cnty. Dec. LEXIS 4482 \(Pa. County Ct. Dec. 17, 2015\)](#), aff'd, 154 A.3d 874, 2016 Pa. Super. Unpub. LEXIS 2765 (Pa. Super. Ct. 2016).

In support of an affirmance under *Pa. R. App. P. 1925*, the court properly adopted a hearing officer's recommendation as to the father's child support because the mother was properly not assigned a full-time earning capacity, as she provided credible evidence that her job was usually hired on a part-time basis, she was seeking an additional job, she had a health issue, and she was caring for young children at home. [C.R.W. v. T.R.G., 2015 Pa. Dist. & Cnty. Dec. LEXIS 4482 \(Pa. County Ct. Dec. 17, 2015\)](#), aff'd, 154 A.3d 874, 2016 Pa. Super. Unpub. LEXIS 2765 (Pa. Super. Ct. 2016).

In support of an affirmance under *Pa. R. App. P. 1925*, the court properly dismissed a father's exceptions and adopted a recommendation of a hearing officer as to the amount of his monthly child support because it was supported by the record, including the findings as to the father's disability and the mother's child expenses. [C.R.W. v. T.R.G., 2015 Pa. Dist. & Cnty. Dec. LEXIS 4482 \(Pa. County Ct. Dec. 17, 2015\)](#), aff'd, 154 A.3d 874, 2016 Pa. Super. Unpub. LEXIS 2765 (Pa. Super. Ct. 2016).

Civil Procedure: Discovery: Privileged Matters: General Overview

In a divorce action, the Speech and Debate Clause, [Pa. Const. art. II, § 15](#), did not prohibit a wife from subpoenaing from her husband, a state house representative, his appointment calendar and records from his house expense checking account so that the wife could determine the husband's income from whatever source; those items were incidental to the legislative process and were not the product or result of activity within the protected legitimate legislative sphere. Records of fund allocations for the husband's expenses were not indicative of whether the allocations were proper and the wife was only investigating whether the funds were spent on the husband's personal expenses and could, therefore, be considered income, not whether the funds were properly allocated. [McNaughton v. McNaughton, 72 Pa. D. & C.4th 363, 2005 Pa. Dist. & Cnty. Dec. LEXIS 133 \(Pa. County Ct. 2005\)](#).

Civil Procedure: Judgments: Preclusion & Effect of Judgments: Estoppel: Collateral Estoppel

Issue of imputation and distribution of husband's bonuses from his close corporation was previously determined and accordingly, the issue was barred by collateral estoppel from being raised again in the husband's petition to reduce his child support payments pursuant to [Pa. R. Civ. P. 1910.16-2\(a\)\(8\)](#); accordingly, the court recommended affirmance on appeal of its denial of the petition. [Cipriano v. Cipriano, 2005 Pa. Dist. & Cnty. Dec. LEXIS 342 \(Pa. County Ct. Nov. 10, 2005\)](#), aff'd, 907 A.2d 1128, 2006 Pa. Super. LEXIS 3364 (Pa. Super. Ct. 2006).

Civil Procedure: Appeals: Standards of Review: Abuse of Discretion

trial court did not abuse its discretion when it included the survivor's benefit payment the mother received from the United States Social Security Administration in calculating her income for child support because the Support Law specifically recognized "social security benefits" as "income"; the mother used the Survivor's Benefit for the child's expenses, the Survivor's Benefit was taxable to the mother, and the mother reported the Survivor's Benefit on her tax return. [C.H.Z. v. A.J.Y., 2021 PA Super 186, 262 A.3d 604, 2021 Pa. Super. LEXIS 581 \(Pa. Super. Ct. 2021\)](#).

Constitutional Law: Congressional Duties & Powers: Speech & Debate Immunity

In a divorce action, the Speech and Debate Clause, [Pa. Const. art. II, § 15](#), did not prohibit a wife from subpoenaing from her husband, a state house representative, his appointment calendar and records from his house expense checking account so that the wife could determine the husband's income from whatever source; those items were incidental to the legislative process and were not the product or result of activity within the protected legitimate legislative sphere. Records of fund allocations for the husband's expenses were not indicative of whether the allocations were proper and the wife was only investigating whether the funds were spent on the husband's personal expenses and could, therefore, be considered income, not whether the funds were properly allocated. [McNaughton v. McNaughton, 72 Pa. D. & C.4th 363, 2005 Pa. Dist. & Cnty. Dec. LEXIS 133 \(Pa. County Ct. 2005\)](#).

Evidence: Privileges: Government Privileges: General Overview

In a divorce action, the Speech and Debate Clause, [Pa. Const. art. II, § 15](#), did not prohibit a wife from subpoenaing from her husband, a state house representative, his appointment calendar and records from his house expense checking account so that the wife could determine the husband's income from whatever source; those items were incidental to the legislative process and were not the product or result of activity within the protected legitimate legislative sphere. Records of fund allocations for the husband's expenses were not indicative of whether the allocations were proper and the wife was only investigating whether the funds were spent on the husband's personal expenses and could, therefore, be considered income, not whether the funds were properly allocated. [McNaughton v. McNaughton, 72 Pa. D. & C.4th 363, 2005 Pa. Dist. & Cnty. Dec. LEXIS 133 \(Pa. County Ct. 2005\)](#).

Evidence: Procedural Considerations: Burdens of Proof: Allocation

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was opined that as a father failed to show an involuntary significant loss of income that was continuing and indefinite, he did not meet his burden for purposes of his request for modification of his child support obligation under [Pa. R. Civ. P. 1910.16-2\(d\)\(2\)](#); rather, the evidence showed that the father's reduction in income was the result of either normal fluctuations or his purposeful actions in attempting to reduce his income in order to reduce his obligation. [Sirio v. Sirio, 2010 Pa. Dist. & Cnty. Dec. LEXIS 209 \(Pa. County Ct. Feb. 23, 2010\)](#), aff'd in part, vacated in part, 29 A.3d 827, 2011 Pa. Super. LEXIS 1916 (Pa. Super. Ct. 2011).

Family Law: Child Custody: Awards: Physical Custody: Joint Physical Custody

Trial court's failure to initially perform a calculation to determine what the presumptive minimum amount of child support should have been pursuant to [Pa.R.C.P. No. 1910.16-2\(e\)\(2\)](#) was harmless error. Although the presumptive minimum may have been a starting point, it was the Melzer analysis that was to be used to calculate the child support due in a high income case. [Sirio v. Sirio, 2008 PA Super 133, 951 A.2d 1188, 2008 Pa. Super. LEXIS 1454 \(Pa. Super. Ct. 2008\)](#).

Family Law: Child Support: Obligations: General Overview

In a high income child support case pursuant to [Pa. R. Civ. P. 1910.16-2\(e\)](#), the trial court properly accounted for the wife's ordinary and necessary business expenses as they were shown in her income and expense statement, but the trial court erred by failing to calculate the children's reasonable needs separately from those of the wife. [Chapman-Rolle v. Rolle, 2006 PA Super 29, 893 A.2d 770, 2006 Pa. Super. LEXIS 89 \(Pa. Super. Ct. 2006\)](#).

It was proper for a domestic relations master to impute a higher income to a mother who worked as a teacher's aide as she was a licensed attorney in New York who had practice experience, was voluntarily underemployed, and while she decided not to make the law her career any more, both parents had an obligation to support their child pursuant to their earning capacities, and a parent's earning capacity was determined based on the factors in [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#); remand, however, was needed to determine evidence that supported the imputed income

figure that the master had chosen. [Scheiner v. Scheiner, 71 Pa. D. & C.4th 192, 2004 Pa. Dist. & Cnty. Dec. LEXIS 294 \(Pa. County Ct. 2004\).](#)

Where the father sought to terminate his child support obligation because he became his children's custodial parent and there was a disparity of income between the parents, the court properly began its support determination by calculating the presumptive minimum as set forth in [Pa. R. Civ. P. 1910.16-2](#); however, once the trial court calculated the presumptive minimum, it abused its discretion by failing to consider the relevant factors set forth in [Pa. R. Civ. P. 1910.16-5\(b\)](#) regarding deviation from the support guidelines. [Colonna v. Colonna, 2004 Pa. LEXIS 1025.](#)

Trial court did not abuse its discretion in calculating the father's earning capacity and support obligation, because the father did not voluntarily reduce his income by accepting a lower paying position, nor did he accept a lower paying job in the face of more lucrative opportunities, where the evidence established that the father had been in his present position since approximately nine years prior to the birth of his child. [Dennis v. Whitney, 2004 PA Super 56, 844 A.2d 1267, 2004 Pa. Super. LEXIS 179 \(Pa. Super. Ct. 2004\).](#)

Trial court did not abuse its discretion in assigning one of three child dependency tax exemptions to a non-custodial parent, despite the custodial parent's higher income; the exemption provided an incentive for the non-custodial parent to stay current on child support payments. [May v. May, 2003 PA Super 453, 837 A.2d 566, 2003 Pa. Super. LEXIS 4104 \(Pa. Super. Ct. 2003\).](#)

Trial court properly determined a husband's earning capacity, pursuant to [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#), based on consideration of the requisite factors, including the fact that he was operating his own business while attempting to find other employment and was making substantially less at that point than in his usual employment positions; the trial court had doubted the husband's testimony and evidence and found that he had engaged in conduct to reduce his earnings in order to minimize his financial obligations to his wife. [Isralsky v. Isralsky, 2003 PA Super 162, 824 A.2d 1178, 2003 Pa. Super. LEXIS 1199 \(Pa. Super. Ct. 2003\).](#)

In determining child and spousal support, where a party willfully fails to obtain appropriate employment, pursuant to [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#) his or her income will be considered to be equal to his or her earning capacity. [Isralsky v. Isralsky, 2003 PA Super 162, 824 A.2d 1178, 2003 Pa. Super. LEXIS 1199 \(Pa. Super. Ct. 2003\).](#)

Retroactive recalculation of the parents' respective support obligations was proper upon the discovery that the mother had not reported receipt of benefits, and where the father sought a modification of the obligations as soon as he learned of the benefits; however, the rule requiring that the child's derivative benefits be subtracted from the total income available before the parties' obligations were calculated did not apply retroactively. [Maddas v. Dehaas, 2003 PA Super 23, 816 A.2d 234, 2003 Pa. Super. LEXIS 26 \(Pa. Super. Ct. 2003\).](#)

Trial court could include the husband's relocation bonuses, but not potential, unrealized bonuses in calculating his income for child support purposes; it could also consider the wife's earning potential rather than her actual income. [Portugal v. Portugal, 2002 PA Super 132, 798 A.2d 246, 2002 Pa. Super. LEXIS 795 \(Pa. Super. Ct. 2002\).](#)

Inheritance which father received was not "income" under [23 Pa.C.S. § 4302](#) which qualified as a source for payment of child support, but support award could be adjusted upwards if a fact finder found that father's inheritance increased his income. [Humphreys v. DeRoss, 567 Pa. 614, 790 A.2d 281, 2002 Pa. LEXIS 293 \(Pa. 2002\).](#)

The contention of an ex-wife whose child support payment was modified and her wages attached, that the amount attached was confiscatory and exceeded the limit on garnishment set forth in the Consumer Credit Protection Act (Act), [15 U.S.C.S. §§ 1671-1677](#), was without merit; assessment of the mother's income for garnishment purposes above her actual earnings was proper under [Pa. R. Civ. P. 1910.16-2\(d\)\(1\)](#) and (4), because the assessment was based on her skills and experience, she had voluntarily gone to part-time work status and, thus, her earning capacity was properly used when determining the limit on garnishment under the Act. [Laws v. Laws, 2000 PA Super 248, 758 A.2d 1226, 2000 Pa. Super. LEXIS 2462 \(Pa. Super. Ct. 2000\).](#)

Husband voluntarily reduced his income when he sold stock in a family business from which he regularly received a dividend; the additional income was imputed to husband for purposes of calculating the support level. [Neil v. Neil, 1999 PA Super 117, 731 A.2d 156, 1999 Pa. Super. LEXIS 941 \(Pa. Super. Ct. 1999\).](#)

Family Law: Child Support: Obligations: Computation: General Overview

Master properly concluded that a father's loss on the sale of property that he used as his primary residence was not a loss of income to him under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(2\)](#) for purposes of calculating his child and spousal support obligations, as "income" only included references to "net gains" from dealings in property; the sale of the father's residence was not included therein, and an offset was only allowed against gains from dealings in property and not against any other source of income. [K.J.P. v. R.A.P., 2013 PA Super 126, 68 A.3d 974, 2013 Pa. Super. LEXIS 740 \(Pa. Super. Ct. 2013\).](#)

Because use of a company van for personal use, a monthly cell phone stipend, and a rewards credit card provided only a minimal benefit at best, they would not be considered part of a father's income for purposes of determining his child support obligation. [R.L.H. v. H.S., 2014 Pa. Dist. & Cnty. Dec. LEXIS 250 \(Pa. County Ct. July 14, 2014\),](#) aff'd, 122 A.3d 452, 2015 Pa. Super. Unpub. LEXIS 1410 (Pa. Super. Ct. 2015).

Although a father's opportunity to purchase stock through a payroll deduction was not a stock option it was not considered income for purposes of determining his child support obligation, however, dividends the father received from the stock would be included in his income. [R.L.H. v. H.S., 2014 Pa. Dist. & Cnty. Dec. LEXIS 250 \(Pa. County Ct. July 14, 2014\),](#) aff'd, 122 A.3d 452, 2015 Pa. Super. Unpub. LEXIS 1410 (Pa. Super. Ct. 2015).

Contributions made to a father's 401(k) were to be included in the determination of the father's income, however, the conference officer was to take into consideration the 10% penalty the father would take on any early withdrawal and the father's income tax bracket. [R.L.H. v. H.S., 2014 Pa. Dist. & Cnty. Dec. LEXIS 250 \(Pa. County Ct. July 14, 2014\),](#) aff'd, 122 A.3d 452, 2015 Pa. Super. Unpub. LEXIS 1410 (Pa. Super. Ct. 2015).

As a mother was able to adequately provide for the needs of her child, and as there was no indication the mother could not provide an environment that resemble the one which might be provided by the father such that a deviation from the support guidelines would be in the best interest of the child, the disparity in income between the mother and the father was not so significant as to warrant a deviation. [R.L.H. v. H.S., 2014 Pa. Dist. & Cnty. Dec. LEXIS 250 \(Pa. County Ct. July 14, 2014\),](#) aff'd, 122 A.3d 452, 2015 Pa. Super. Unpub. LEXIS 1410 (Pa. Super. Ct. 2015).

Father's child support obligation would not be determined based prevailing wage rates based on evidence that the in the father's position as a technician, projects at the prevailing wage were not readily available to him, and in the past year, the father had not voluntarily chosen not to work on any prevailing wage project. [R.L.H. v. H.S., 2014 Pa. Dist. & Cnty. Dec. LEXIS 250 \(Pa. County Ct. July 14, 2014\),](#) aff'd, 122 A.3d 452, 2015 Pa. Super. Unpub. LEXIS 1410 (Pa. Super. Ct. 2015).

In calculating a former husband's child support obligation, federal and state educational grant monies received by the husband for college were properly considered income to him because they were not akin to gifts and/or public assistance, and were within the definition of income. [Laky v. Laky, 2014 Pa. Dist. & Cnty. Dec. LEXIS 81 \(Pa. County Ct. June 24, 2014\),](#) aff'd, 121 A.3d 1137, 2015 Pa. Super. Unpub. LEXIS 1036 (Pa. Super. Ct. 2015).

As a father's tax return was not self-explanatory, he was fairly ignorant of his own business expenses and tax return, and he declined to provide evidence to justify lowering his child support income, many of his deductions before the special master were disallowed. [Matthews v. Matthews, 34 Pa. D. & C.5th 415, 2013 Pa. Dist. & Cnty. Dec. LEXIS 490 \(Pa. County Ct. Nov. 25, 2013\).](#)

In support of an affirmance on appeal under [Pa. R. App. P. 1925](#), it was noted that a father sufficiently demonstrated, through his credible testimony and the exhibits entered into evidence, that his income had declined enough to warrant a modification of his support obligation pursuant to [Pa. R. Civ. P. 1910.16-2](#) and [23 Pa.C.S. §](#)

[4302](#); his income had significantly been reduced due to the negative changes in business circumstances suffered by his company. [Waters v. Waters, 2012 Pa. Dist. & Cnty. Dec. LEXIS 259 \(Pa. County Ct. Mar. 14, 2012\)](#).

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that a trial court properly relied upon a report of the Domestic Relations Officer with respect to tax estimates rather than actual tax liability incurred by the father pursuant to monthly net income under [Pa. R. Civ. P. 1910.16-2](#) for purposes of his child support modification request, as the court independently reviewed the recommendation and determined that it was supported by the record; the recommendation only attributed to the father the income that he was actually earning. [Waters v. Waters, 2012 Pa. Dist. & Cnty. Dec. LEXIS 259 \(Pa. County Ct. Mar. 14, 2012\)](#).

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was opined that a court did not err when it refused to accept a special master's calculations of a father's income with respect to his petitions to modify his child support obligations, as the court determined that the master's determination of the father's earning capacity was arbitrary and was based on income that was the result of the father's purposeful actions to reduce his income in order to escape proper child support; the court disagreed with the master's acceptance of deductions from the father's income pursuant to [Pa. R. Civ. P. 1910.16-2\(c\)](#), such as deductions for losses on his investment real estate. [Sirio v. Sirio, 2010 Pa. Dist. & Cnty. Dec. LEXIS 209 \(Pa. County Ct. Feb. 23, 2010\)](#), aff'd in part, vacated in part, 29 A.3d 827, 2011 Pa. Super. LEXIS 1916 (Pa. Super. Ct. 2011).

Child support order that accepted as credible a mother's assertions as to her own expenses and accepted a calculation that \$189,500 of the mother's \$205,000 expenses in 2005 were related to the children was not an abuse of discretion and was supported by the trial court's apparent attempt to provide the mother with appropriate housing and lifestyle amenities during her period of custody based on the fact that she was the parent with fewer assets and no income. [Rich v. Rich, 2009 PA Super 7, 967 A.2d 400, 2009 Pa. Super. LEXIS 14 \(Pa. Super. Ct. 2009\)](#).

Trial court's manner of allowing a father recoupment of his overpayment of child support from an earlier interim support order was not an abuse of discretion where it provided him with a monthly amount of credit because it was a proper balance between the competing interests of the parties and the children. [Rich v. Rich, 2009 PA Super 7, 967 A.2d 400, 2009 Pa. Super. LEXIS 14 \(Pa. Super. Ct. 2009\)](#).

Trial court erred in refusing to adjust a father's child support obligation after the oldest of the father's four children reached the age of 18 because the trial court's finding that the normal cost-of-living increases for the expenses of the remaining three children would offset any reduction in expenses was not based on evidence actually contained in the record. [Rich v. Rich, 2009 PA Super 7, 967 A.2d 400, 2009 Pa. Super. LEXIS 14 \(Pa. Super. Ct. 2009\)](#).

In setting the child support obligation of a father who was a civilian defense employee stationed in Germany, it was not error to include his living quarter and post allowances in his net income; including the allowances considered that the child lived full-time with the mother and would not otherwise share in the benefit of the allowances. [Krankowski v. O'Neil, 2007 PA Super 179, 928 A.2d 284, 2007 Pa. Super. LEXIS 1610 \(Pa. Super. Ct. 2007\)](#).

In this *Pa. R. App. P. 1925(a)* proceeding, the trial court recommended its judgment be affirmed as a father's income from all sources was considered under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)](#) in imputing the father's subchapter S corporation's income to the father since: (1) the father's testimony concerning his income was not credible, (2) the mother showed that the father promoted events other than those claimed by the father, although he argued that the other events were cancelled, (2) the father was a co-promoter of a boxing match, despite the fact that his license had been suspended, (3) the father testified that he helped a parent with boxing lessons at his parent's boxing center, but the mother showed that the center bore the name of the father, (4) the father admitted that his brother and his parent assisted him financially, and (5) the corporation had a \$ 13,441 auto expenses deduction. [Kazanjian v. Feldman, 2007 Pa. Dist. & Cnty. Dec. LEXIS 41 \(Pa. County Ct. Feb. 13, 2007\)](#).

Trial court properly deducted mandatory pension contributions in determining the father's gross income for child and spousal support purposes, as [Pa. R. Civ. P. 1910.16-2\(c\)\(1\)\(B\)](#) allowed such a deduction from monthly gross income in order to arrive at net income. [Berry v. Berry, 2006 PA Super 98, 898 A.2d 1100, 2006 Pa. Super. LEXIS 655 \(Pa. Super. Ct. 2006\)](#).

Family Law: Child Support: Obligations: Computation: Guidelines

trial court did not abuse its discretion when it included the survivor's benefit payment the mother received from the United States Social Security Administration in calculating her income for child support because the Support Law specifically recognized "social security benefits" as "income"; the mother used the Survivor's Benefit for the child's expenses, the Survivor's Benefit was taxable to the mother, and the mother reported the Survivor's Benefit on her tax return. [C.H.Z. v. A.J.Y., 2021 PA Super 186, 262 A.3d 604, 2021 Pa. Super. LEXIS 581 \(Pa. Super. Ct. 2021\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), the husband's payments of income taxes on behalf of his children, incurred from income from a pass-through entity that was not distributed, was not properly deducted from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); rather, only his own income tax payments were deductible under Rule 1910.16-2(c)(1)(A). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

Trial court properly considered the requirements of [Pa.R.C.P. No. 1910.16-2\(d\)\(4\)](#) as to earning capacities and properly rejected a mother's argument that the cost of a caretaker would consume her income base as the trial court's explanation showed that it considered child care costs as required by the Rule, but concluded that no adjustment to the mother's earning capacity was warranted because there was no credible evidence as to the cost or frequency of need for a caregiver. [Morgan v. Morgan, 2014 PA Super 176, 99 A.3d 554, 2014 Pa. Super. LEXIS 2872 \(Pa. Super. Ct. 2014\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), although it appeared that a husband's loan payment was a legitimate personal expense, that did not make it deductible for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); rather, it was a personal expense that was indistinguishable from other non-deductible expenses that had to be paid by spouses in support cases. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), where the husband was a 50 percent owner of a business entity that held real property and he took over his partner's obligations and established payments, such as mortgage expenses, were necessary to maintain or preserve the entity and/or they could be considered bona fide business expenses, they were deductible from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); there was evidence that the entity would have failed without the husband's capital infusion. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite pursuant to [23 Pa.C.S. § 4322](#), where a husband had no ownership interest in an entity although it generated a good return on his investment, and he made a voluntary reinvestment of a sum of money, the interest that he received was income under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), the husband's payments to purchase life insurance premiums were costs associated with his role as an investor and were thus not excludable from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), the husband's interest and dividend income earned from a trust, which was funded in part by contributions from the husband, was not deductible from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#), as they constituted income; however, as the husband never had use of the money and immediately rolled it over, it was considered a factor for deviation. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), capital gains earned in the husband's margin account were excluded from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#), as the gain was inaccessible to him without significant financial maneuverings. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), as a husband made the ultimate business decisions for a corporation that he controlled and owned a large portion of, those decisions had to be scrutinized in order to determine whether such funds should be imputed as income to the husband and available for support computation purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), only a portion of a husband's share of loans made by a company that he was a majority owner of to two separate entities, which were in the nature of an investment, were included as his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#), as the record did not reveal that had the loans not been made, that their entire value would have been distributed to the shareholders. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), money that a husband borrowed to pay personal debts was not an item that was properly deductible from income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), to the extent that a husband used certain perquisites, such as a business-provided car, mobile phone, and country club membership, for personal reasons, they were included as income to him for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), loan proceeds that the husband received by borrowing an amount from an entity through a shareholder loan were not included in his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for, inter alia, child support under [23 Pa.C.S. § 4322](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#) and [1910.16-3.1\(a\)](#) and (b), the Melzer formula as well as the newer formula under the latter section of the Rule, was applied and resulted in a determination of how much the husband owed, which was greater than the presumptive minimum amounts of child support due under the schedule and took into account the parties' very affluent lifestyle; the wife owed nothing because her expenses exceeded her income for all applicable periods. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite pursuant to [23 Pa.C.S. § 4322](#), although the husband was attributed with considerable income from pass-through entities, as he held minority interests in them and in most cases, the income was retained by the respective entity and not distributed to the husband, it was not available to the husband for support purposes under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite pursuant to [23 Pa.C.S. § 4322](#), where a husband, who held interests in many business entities, proved that various expenses were bona fide business expenses, they were deducted for purposes of calculating his income under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); however, contributions to various entities and the associated costs that arose from voluntary investments were not treated as deductions from his income. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), a husband's contractual obligation to invest in a business entity was not a legitimate deduction from net income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#), even where the decision to invest was made prior to separation; however, it warranted consideration in assessing whether to deviate from the support award determined by the guidelines. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

In a proceeding pursuant to *Pa. R. App. P. 1925(b)*, a trial court recommended affirming its order setting a father's earning capacity at \$3,187 per month commensurate with that of a retail sales manager with regard to his child support obligation because for 13 years prior to separation, he was a stay-at-home parent and he relocated several times to accommodate the mother's career, his expert testified that it would be extremely unlikely that the father could obtain employment in a technical sales field at a wage of an experienced salesperson due the break in his work history and his lack of networking contacts, and he was also at a disadvantage because of his age since employers may prefer to hire someone younger, almost straight out of school, that would command a lower salary. [Mackay v. Mackay, 2011 Pa. Dist. & Cnty. Dec. LEXIS 396 \(Pa. County Ct. Nov. 10, 2011\)](#), *aff'd*, 60 A.3d 554, 2012 Pa. Super. LEXIS 3698 (Pa. Super. Ct. 2012), *aff'd*, 60 A.3d 554, 2012 Pa. Super. LEXIS 3734 (Pa. Super. Ct. 2012).

In a post-divorce case, a trial court did not err by reducing a father's child support obligation from \$ 1,094 to \$ 810 per month for three of their four children in light of their oldest daughter's graduation from high school and his actual income earned. The court refused to disturb the trial court's finding that the father had not willfully failed to obtain appropriate employment, particularly in light of his rapid advancement with his employer and the fact that he had been out of the work force for many years while being the stay-at-home parent during the marriage. [Mackay v. Mackay, 2009 PA Super 219, 984 A.2d 529, 2009 Pa. Super. LEXIS 4463 \(Pa. Super. Ct. 2009\)](#).

Best resolution was to vacate that part of a trial court's order setting the father's basic support obligation at \$ 0.00 and directing the father to split the monthly Social Security derivative benefit of \$ 1,164 with the mother, because the order did not address the support guidelines or the interaction of the order with the federal statutes. Once the father's basic support obligation was established under the guidelines, the court could consider the Social Security derivative benefits as "other income in Father's household" available for child support and deviate upward from the guidelines to effect equity and avoid an unjust or inappropriate result. [Silver v. Pinskey, 2009 PA Super 183, 981 A.2d 284, 2009 Pa. Super. LEXIS 3279 \(Pa. Super. Ct. 2009\)](#).

In a child support modification proceeding, the trial court did not abuse its discretion by ordering a father to pay a portion of his child's private school tuition as it was consistent with the child's and parents' station in life, he had voluntarily paid for the same previously, and the child was found to have benefited from the same. However, the trial court did err in calculating the father's 2008 income by including one-time stock options exercised in 2007; by failing to calculate perquisite income from personal use of a company-provided vehicle appropriately for 2006 and 2007; and by not accounting for the withdrawal penalty when it included his employer's gross contributions to his retirement and stock accounts. [Murphy v. McDermott, 2009 PA Super 151, 979 A.2d 373, 2009 Pa. Super. LEXIS 2267 \(Pa. Super. Ct. 2009\)](#).

In support of its child support order, a family court found that it properly accommodated a father's disability by scheduling the hearing in the afternoon and providing a listening device in the courtroom as he requested, but he failed to appear. The family court also determined that it had properly calculated the father's child support obligation by considering the parties' income, using the amount he received in Social Security disability income, and deducting the amount necessary from that amount to comply with the Self-Support Reserve Rule. [Balliet v. Shivone, 2008 Pa. Dist. & Cnty. Dec. LEXIS 139 \(Pa. County Ct. June 25, 2008\)](#).

Trial court's failure to initially perform a calculation to determine what the presumptive minimum amount of child support should have been pursuant to [Pa.R.C.P. No. 1910.16-2\(e\)\(2\)](#) was harmless error. Although the presumptive minimum may have been a starting point, it was the Melzer analysis that was to be used to calculate

the child support due in a high income case. [Sirio v. Sirio, 2008 PA Super 133, 951 A.2d 1188, 2008 Pa. Super. LEXIS 1454 \(Pa. Super. Ct. 2008\)](#).

Father was not required to split Social Security benefits with mother; benefits received by children due to father's retirement had to be added to parents' combined monthly net incomes to calculate income available for support, under [Pa.R.C.P. 1910.16-2\(b\)\(2\)](#). Support amount could be reduced by benefits before apportioning remaining obligation. [Silver v. Pinskey, 2008 PA Super 66, 2008 Pa. Super. LEXIS 268 \(Pa. Super. Ct. 2008\)](#), op. withdrawn, [2008 Pa. Super. LEXIS 1603 \(Pa. Super. Ct. May 30, 2008\)](#), sub. op., different results reached on reconsid., [2009 PA Super 183, 981 A.2d 284, 2009 Pa. Super. LEXIS 3279 \(Pa. Super. Ct. 2009\)](#).

While a wife requested at a child support hearing that the court award her the presumptive minimum amount of support as set forth by [Pa. R. Civ. P. 1910.16-2\(e\)\(2\)](#), the court was not restricted to the presumptive minimum, even though the wife requested it. [Kang v. Kang, 2006 Pa. Dist. & Cnty. Dec. LEXIS 404 \(Pa. County Ct. May 8, 2006\)](#), aff'd, 931 A.2d 59, 2007 Pa. Super. LEXIS 2911 (Pa. Super. Ct. 2007).

While a wife requested at a child support hearing that the court award her the presumptive minimum amount of support as set forth by [Pa. R. Civ. P. 1910.16-2\(e\)\(2\)](#), the court was not restricted to the presumptive minimum, even though the wife requested it. [Kang v. Kang, 2006 Pa. Dist. & Cnty. Dec. LEXIS 404 \(Pa. County Ct. May 8, 2006\)](#), aff'd, 931 A.2d 59, 2007 Pa. Super. LEXIS 2911 (Pa. Super. Ct. 2007).

Family Law: Child Support: Obligations: Computation: Imputed Income

In support of an affirmance under *Pa. R. App. P. 1925*, the court properly adopted a hearing officer's recommendation as to the father's child support because he was properly assigned an earning capacity, as he had an obligation to support his child, he had made no effort to obtain any type of income which was tantamount to a voluntary reduction of income, and his prior employment included significant overtime. [C.R.W. v. T.R.G., 2015 Pa. Dist. & Cnty. Dec. LEXIS 4482 \(Pa. County Ct. Dec. 17, 2015\)](#), aff'd, 154 A.3d 874, 2016 Pa. Super. Unpub. LEXIS 2765 (Pa. Super. Ct. 2016).

In support of an affirmance under *Pa. R. App. P. 1925*, the court properly adopted a hearing officer's recommendation as to the father's child support because the mother was properly not assigned a full-time earning capacity, as she provided credible evidence that her job was usually hired on a part-time basis, she was seeking an additional job, she had a health issue, and she was caring for young children at home. [C.R.W. v. T.R.G., 2015 Pa. Dist. & Cnty. Dec. LEXIS 4482 \(Pa. County Ct. Dec. 17, 2015\)](#), aff'd, 154 A.3d 874, 2016 Pa. Super. Unpub. LEXIS 2765 (Pa. Super. Ct. 2016).

In support of an affirmance under *Pa. R. App. P. 1925*, the court properly dismissed a father's exceptions and adopted a recommendation of a hearing officer as to the amount of his monthly child support because it was supported by the record, including the findings as to the father's disability and the mother's child expenses. [C.R.W. v. T.R.G., 2015 Pa. Dist. & Cnty. Dec. LEXIS 4482 \(Pa. County Ct. Dec. 17, 2015\)](#), aff'd, 154 A.3d 874, 2016 Pa. Super. Unpub. LEXIS 2765 (Pa. Super. Ct. 2016).

Family Law: Child Support: Obligations: Computation: Imputed Income: General Overview

Former husband's petition to reduce his child support obligation lacked merit because he was deemed capable of a full-time earning capacity, despite that he was a full-time college student, as the educational pursuit was voluntary and did not change his obligation to support his children's needs. [Laky v. Laky, 2014 Pa. Dist. & Cnty. Dec. LEXIS 81 \(Pa. County Ct. June 24, 2014\)](#), aff'd, 121 A.3d 1137, 2015 Pa. Super. Unpub. LEXIS 1036 (Pa. Super. Ct. 2015).

Calculation of a husband's earning capacity included consideration of the totality of his circumstances, including his age, health, work experience, earnings history, and child care responsibilities. [Laky v. Laky, 2014 Pa. Dist. & Cnty.](#)

[Dec. LEXIS 81 \(Pa. County Ct. June 24, 2014\)](#), aff'd, 121 A.3d 1137, 2015 Pa. Super. Unpub. LEXIS 1036 (Pa. Super. Ct. 2015).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), interest payments that a trust documented to the husband were included in his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#); however, as he never received the funds and immediately rolled them over to cover the principal and interest payment due to a bank, a downward deviation of that imputed income was considered. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), investment by a company that the husband owned a majority of into an entity in order to address employee health care costs was a legitimate bona fide business expense, as well as one necessary for the continued operation and smooth running of the business, such that the investment was not imputed into the husband's income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

In a *Pa. R. App. P. 1925(a)* proceeding, the court recommended that its order dismissing a mother's exceptions to a hearing officer's recommendation to modify child support be affirmed because there was a substantial, continuing involuntary decrease in the father's income caused by a situation over which he had no control as the father's former business partner had unilaterally ended the partnership; there was no evidence that the father voluntarily or willfully caused the dissolution or took any action to circumvent his support obligation, and under [Pa. R. Civ. P. 1910.16-2\(d\)\(2\)](#), the father was entitled to an adjustment in support. Rule 1910.16-2(d)(l) was not applicable. [Werner v. Werner, 2011 Pa. Dist. & Cnty. Dec. LEXIS 242 \(Pa. County Ct. Aug. 18, 2011\)](#), aff'd, 48 A.3d 473, 2012 Pa. Super. LEXIS 1755 (Pa. Super. Ct. 2012).

In a *Pa. R. App. P. 1925(a)* proceeding, the court recommended its judgment be affirmed because much of a father's income was a projection based upon him embarking on a new business, the issue of whether he could actually meet this income projection was unclear. As the documents revealed that his prior income projection had been overly optimistic, he was assigned an income reflecting that reality. [Mihelich v. Fenstermacher, 2011 Pa. Dist. & Cnty. Dec. LEXIS 70 \(Pa. County Ct. Feb. 28, 2011\)](#).

When the parties' child was autistic and mentally retarded and the mother, an unlicensed attorney, had primary custody and the father lived in Germany, it was not error to assign the mother a zero net income; the mother testified that the child's condition required her to be prepared at a moment's notice to address her teachers' concerns, and furthermore the mother had not had meaningful employment since 1995 and to practice law would have to take the Pennsylvania bar examination, which she could not do because of the time required for the child's care. [Krankowski v. O'Neil, 2007 PA Super 179, 928 A.2d 284, 2007 Pa. Super. LEXIS 1610 \(Pa. Super. Ct. 2007\)](#).

In this *Pa. R. App. P. 1925(a)* proceeding, the trial court recommended its judgment be affirmed as a father's income from all sources was considered under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)](#) in imputing the father's subchapter S corporation's income to the father since: (1) the father's testimony concerning his income was not credible, (2) the mother showed that the father promoted events other than those claimed by the father, although he argued that the other events were cancelled, (2) the father was a co-promoter of a boxing match, despite the fact that his license had been suspended, (3) the father testified that he helped a parent with boxing lessons at his parent's boxing center, but the mother showed that the center bore the name of the father, (4) the father admitted that his brother and his parent assisted him financially, and (5) the corporation had a \$ 13,441 auto expenses deduction. [Kazanjian v. Feldman, 2007 Pa. Dist. & Cnty. Dec. LEXIS 41 \(Pa. County Ct. Feb. 13, 2007\)](#).

Issue of imputation and distribution of husband's bonuses from his close corporation was previously determined and accordingly, the issue was barred by collateral estoppel from being raised again in the husband's petition to reduce his child support payments pursuant to [Pa. R. Civ. P. 1910.16-2\(a\)\(8\)](#); accordingly, the court recommended affirmance on appeal of its denial of the petition. [Cipriano v. Cipriano, 2005 Pa. Dist. & Cnty. Dec. LEXIS 342 \(Pa. County Ct. Nov. 10, 2005\)](#), aff'd, 907 A.2d 1128, 2006 Pa. Super. LEXIS 3364 (Pa. Super. Ct. 2006).

Family Law: Child Support: Obligations: Computation: Imputed Income: Underemployment

In this *Pa.R.A.P. 1925(a)* opinion considering the father's challenge to a child support order, the court recommended that the father's appeal should be dismissed because although the mother was a physician in Pakistan, she sought asylum in the U.S. and did not have a visa allowing her to work, and thus the mother had no income and she should not be assessed an earning capacity where she had no control over her employment situation. [S.S. v. B.S., 46 Pa. D. & C.5th 173, 2015 Pa. Dist. & Cnty. Dec. LEXIS 21496 \(Pa. County Ct. Mar. 23, 2015\)](#), aff'd, 131 A.3d 83, 2015 Pa. Super. Unpub. LEXIS 2697 (Pa. Super. Ct. 2015).

Because it was apparent that the trial court found a father willfully failed to seek appropriate employment based upon the court's own improper internet job search, and there was no other evidence of record that there were suitable positions available, and that the father failed to apply for those positions, the trial court abused its discretion. [Ney v. Ney, 2007 PA Super 38, 917 A.2d 863, 2007 Pa. Super. LEXIS 189 \(Pa. Super. Ct. 2007\)](#).

Because a mother acted responsibly and in good faith to mitigate her earning loss after being fired for willful misconduct, the trial court did not violate [Pa. R. Civ. P. 1910.16-2\(d\)\(1\)](#) and (4) by granting her request to increase the father's child support obligation due to her reduced income. [Grigoruk v. Grigoruk, 2006 PA Super 334, 912 A.2d 311, 2006 Pa. Super. LEXIS 4087 \(Pa. Super. Ct. 2006\)](#).

Where a mother lost her job and accepted a position that paid substantially less, the trial court properly increased the father's child support and did not abuse its discretion in declining to impose an ongoing duty on the mother to mitigate her reduced income, because the law did not compel such an obligation, and once employed, she discontinued her job search to avoid jeopardizing her new employment. [Grigoruk v. Grigoruk, 2006 PA Super 334, 912 A.2d 311, 2006 Pa. Super. LEXIS 4087 \(Pa. Super. Ct. 2006\)](#).

It was proper for a domestic relations master to impute a higher income to a mother who worked as a teacher's aide as she was a licensed attorney in New York who had practice experience, was voluntarily underemployed, and while she decided not to make the law her career any more, both parents had an obligation to support their child pursuant to their earning capacities, and a parent's earning capacity was determined based on the factors in [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#); remand, however, was needed to determine evidence that supported the imputed income figure that the master had chosen. [Scheiner v. Scheiner, 71 Pa. D. & C.4th 192, 2004 Pa. Dist. & Cnty. Dec. LEXIS 294 \(Pa. County Ct. 2004\)](#).

Family Law: Child Support: Obligations: Computation: Imputed Income: Unemployment

In this *Pa.R.A.P. 1925(a)* opinion considering the father's challenge to a child support order, the court recommended that the father's appeal should be dismissed because although the mother was a physician in Pakistan, she sought asylum in the U.S. and did not have a visa allowing her to work, and thus the mother had no income and she should not be assessed an earning capacity where she had no control over her employment situation. [S.S. v. B.S., 46 Pa. D. & C.5th 173, 2015 Pa. Dist. & Cnty. Dec. LEXIS 21496 \(Pa. County Ct. Mar. 23, 2015\)](#), aff'd, 131 A.3d 83, 2015 Pa. Super. Unpub. LEXIS 2697 (Pa. Super. Ct. 2015).

Family Law: Child Support: Obligations: Modification: General Overview

Former husband's petition to reduce his child support obligation lacked merit because he was deemed capable of a full-time earning capacity, despite that he was a full-time college student, as the educational pursuit was voluntary and did not change his obligation to support his children's needs. [Laky v. Laky, 2014 Pa. Dist. & Cnty. Dec. LEXIS 81 \(Pa. County Ct. June 24, 2014\)](#), aff'd, 121 A.3d 1137, 2015 Pa. Super. Unpub. LEXIS 1036 (Pa. Super. Ct. 2015).

In a *Pa. R. App. P. 1925(a)* proceeding, the court recommended that its order dismissing a mother's exceptions to a hearing officer's recommendation to modify child support be affirmed because there was a substantial, continuing

involuntary decrease in the father's income caused by a situation over which he had no control as the father's former business partner had unilaterally ended the partnership; there was no evidence that the father voluntarily or willfully caused the dissolution or took any action to circumvent his support obligation, and under [Pa. R. Civ. P. 1910.16-2\(d\)\(2\)](#), the father was entitled to an adjustment in support. Rule 1910.16-2(d)(l) was not applicable. [Werner v. Werner, 2011 Pa. Dist. & Cnty. Dec. LEXIS 242 \(Pa. County Ct. Aug. 18, 2011\)](#), aff'd, 48 A.3d 473, 2012 Pa. Super. LEXIS 1755 (Pa. Super. Ct. 2012).

Where a parent is fired for cause, in order for the court to consider reducing the parent's child support obligation under [Pa. R. Civ. P. 1910.16-2\(d\)\(1\)](#), the parent must establish that he or she attempted to mitigate lost income. [Ewing v. Ewing, 2004 PA Super 46, 843 A.2d 1282, 2004 Pa. Super. LEXIS 160 \(Pa. Super. Ct. 2004\)](#).

In a case involving modification of the father's child support obligations, the trial court did not abuse its discretion by concluding that the father was fired for cause, because the evidence established that the father was out of work on 11 different occasions for a total of 16 days. [Ewing v. Ewing, 2004 PA Super 46, 843 A.2d 1282, 2004 Pa. Super. LEXIS 160 \(Pa. Super. Ct. 2004\)](#).

In a case involving modification of the father's child support obligations, the trial court did not abuse its discretion when it vacated the father's child care contribution as of May 2002, because the father offered no evidence that a different date was appropriate. [Ewing v. Ewing, 2004 PA Super 46, 843 A.2d 1282, 2004 Pa. Super. LEXIS 160 \(Pa. Super. Ct. 2004\)](#).

In a case involving modification of the father's child support obligations, the trial court did not abuse its discretion when it assessed the mother's earning capacity based on wages she received in prior jobs, rather than her most recent position, because the mother's work history militated in favor of setting her income at a lower amount. [Ewing v. Ewing, 2004 PA Super 46, 843 A.2d 1282, 2004 Pa. Super. LEXIS 160 \(Pa. Super. Ct. 2004\)](#).

In a case involving modification of the father's child support obligations, the trial court abused its discretion by failing to consider whether the father's post-termination efforts at mitigating his lost income warranted a reduction in support. [Ewing v. Ewing, 2004 PA Super 46, 843 A.2d 1282, 2004 Pa. Super. LEXIS 160 \(Pa. Super. Ct. 2004\)](#).

In a request for child support reduction, the voluntary choice to forego current employment in order to further one's education was an employment decision that was to be treated no differently than a decision to change jobs and salary. [Kersey v. Jefferson, 2002 PA Super 22, 791 A.2d 419, 2002 Pa. Super. LEXIS 85 \(Pa. Super. Ct. 2002\)](#).

Family Law: Child Support: Obligations: Modification: Changed Circumstances

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that a father sufficiently demonstrated, through his credible testimony and the exhibits entered into evidence, that his income had declined enough to warrant a modification of his support obligation pursuant to [Pa. R. Civ. P. 1910.16-2](#) and [23 Pa.C.S. § 4302](#); his income had significantly been reduced due to the negative changes in business circumstances suffered by his company. [Waters v. Waters, 2012 Pa. Dist. & Cnty. Dec. LEXIS 259 \(Pa. County Ct. Mar. 14, 2012\)](#).

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that a trial court properly relied upon a report of the Domestic Relations Officer with respect to tax estimates rather than actual tax liability incurred by the father pursuant to monthly net income under [Pa. R. Civ. P. 1910.16-2](#) for purposes of his child support modification request, as the court independently reviewed the recommendation and determined that it was supported by the record; the recommendation only attributed to the father the income that he was actually earning. [Waters v. Waters, 2012 Pa. Dist. & Cnty. Dec. LEXIS 259 \(Pa. County Ct. Mar. 14, 2012\)](#).

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was opined that as a father failed to show an involuntary significant loss of income that was continuing and indefinite, he did not meet his burden for purposes of his request for modification of his child support obligation under [Pa. R. Civ. P. 1910.16-2\(d\)\(2\)](#); rather, the evidence showed that the father's reduction in income was the result of either normal fluctuations or his purposeful actions in

attempting to reduce his income in order to reduce his obligation. [Sirio v. Sirio, 2010 Pa. Dist. & Cnty. Dec. LEXIS 209 \(Pa. County Ct. Feb. 23, 2010\)](#), aff'd in part, vacated in part, 29 A.3d 827, 2011 Pa. Super. LEXIS 1916 (Pa. Super. Ct. 2011).

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was opined that a court did not err when it refused to accept a special master's calculations of a father's income with respect to his petitions to modify his child support obligations, as the court determined that the master's determination of the father's earning capacity was arbitrary and was based on income that was the result of the father's purposeful actions to reduce his income in order to escape proper child support; the court disagreed with the master's acceptance of deductions from the father's income pursuant to *Pa. R. Civ. P. 1910.16-2(c)*, such as deductions for losses on his investment real estate. [Sirio v. Sirio, 2010 Pa. Dist. & Cnty. Dec. LEXIS 209 \(Pa. County Ct. Feb. 23, 2010\)](#), aff'd in part, vacated in part, 29 A.3d 827, 2011 Pa. Super. LEXIS 1916 (Pa. Super. Ct. 2011).

In a post-divorce case, a trial court did not err by reducing a father's child support obligation from \$ 1,094 to \$ 810 per month for three of their four children in light of their oldest daughter's graduation from high school and his actual income earned. The court refused to disturb the trial court's finding that the father had not willfully failed to obtain appropriate employment, particularly in light of his rapid advancement with his employer and the fact that he had been out of the work force for many years while being the stay-at-home parent during the marriage. [Mackay v. Mackay, 2009 PA Super 219, 984 A.2d 529, 2009 Pa. Super. LEXIS 4463 \(Pa. Super. Ct. 2009\)](#).

Because a mother acted responsibly and in good faith to mitigate her earning loss after being fired for willful misconduct, the trial court did not violate *Pa. R. Civ. P. 1910.16-2(d)(1)* and (4) by granting her request to increase the father's child support obligation due to her reduced income. [Grigoruk v. Grigoruk, 2006 PA Super 334, 912 A.2d 311, 2006 Pa. Super. LEXIS 4087 \(Pa. Super. Ct. 2006\)](#).

Where a mother lost her job and accepted a position that paid substantially less, the trial court properly increased the father's child support and did not abuse its discretion in declining to impose an ongoing duty on the mother to mitigate her reduced income, because the law did not compel such an obligation, and once employed, she discontinued her job search to avoid jeopardizing her new employment. [Grigoruk v. Grigoruk, 2006 PA Super 334, 912 A.2d 311, 2006 Pa. Super. LEXIS 4087 \(Pa. Super. Ct. 2006\)](#).

Family Law: Child Support: Procedures

Trial court properly considered the requirements of *Pa.R.C.P. No. 1910.16-2(d)(4)* as to earning capacities and properly rejected a mother's argument that the cost of a caretaker would consume her income base as the trial court's explanation showed that it considered child care costs as required by the Rule, but concluded that no adjustment to the mother's earning capacity was warranted because there was no credible evidence as to the cost or frequency of need for a caregiver. [Morgan v. Morgan, 2014 PA Super 176, 99 A.3d 554, 2014 Pa. Super. LEXIS 2872 \(Pa. Super. Ct. 2014\)](#).

As a father's tax return was not self-explanatory, he was fairly ignorant of his own business expenses and tax return, and he declined to provide evidence to justify lowering his child support income, many of his deductions before the special master were disallowed. [Matthews v. Matthews, 34 Pa. D. & C.5th 415, 2013 Pa. Dist. & Cnty. Dec. LEXIS 490 \(Pa. County Ct. Nov. 25, 2013\)](#).

In a proceeding pursuant to *Pa. R. App. P. 1925(b)*, a trial court recommended affirming its order setting a father's earning capacity at \$3,187 per month commensurate with that of a retail sales manager with regard to his child support obligation because for 13 years prior to separation, he was a stay-at-home parent and he relocated several times to accommodate the mother's career, his expert testified that it would be extremely unlikely that the father could obtain employment in a technical sales field at a wage of an experienced salesperson due the break in his work history and his lack of networking contacts, and he was also at a disadvantage because of his age since employers may prefer to hire someone younger, almost straight out of school, that would command a lower salary. [Mackay v. Mackay, 2011 Pa. Dist. & Cnty. Dec. LEXIS 396 \(Pa. County Ct. Nov. 10, 2011\)](#), aff'd, 60 A.3d 554, 2012

Pa. Super. LEXIS 3698 (Pa. Super. Ct. 2012), aff'd, 60 A.3d 554, 2012 *Pa. Super. LEXIS 3734 (Pa. Super. Ct. 2012)*.

In a child support modification proceeding, the trial court did not abuse its discretion by ordering a father to pay a portion of his child's private school tuition as it was consistent with the child's and parents' station in life, he had voluntarily paid for the same previously, and the child was found to have benefited from the same. However, the trial court did err in calculating the father's 2008 income by including one-time stock options exercised in 2007; by failing to calculate perquisite income from personal use of a company-provided vehicle appropriately for 2006 and 2007; and by not accounting for the withdrawal penalty when it included his employer's gross contributions to his retirement and stock accounts. [*Murphy v. McDermott*, 2009 PA Super 151, 979 A.2d 373, 2009 Pa. Super. LEXIS 2267 \(Pa. Super. Ct. 2009\)](#).

Child support order that accepted as credible a mother's assertions as to her own expenses and accepted a calculation that \$189,500 of the mother's \$205,000 expenses in 2005 were related to the children was not an abuse of discretion and was supported by the trial court's apparent attempt to provide the mother with appropriate housing and lifestyle amenities during her period of custody based on the fact that she was the parent with fewer assets and no income. [*Rich v. Rich*, 2009 PA Super 7, 967 A.2d 400, 2009 Pa. Super. LEXIS 14 \(Pa. Super. Ct. 2009\)](#).

Trial court's manner of allowing a father recoupment of his overpayment of child support from an earlier interim support order was not an abuse of discretion where it provided him with a monthly amount of credit because it was a proper balance between the competing interests of the parties and the children. [*Rich v. Rich*, 2009 PA Super 7, 967 A.2d 400, 2009 Pa. Super. LEXIS 14 \(Pa. Super. Ct. 2009\)](#).

Trial court erred in refusing to adjust a father's child support obligation after the oldest of the father's four children reached the age of 18 because the trial court's finding that the normal cost-of-living increases for the expenses of the remaining three children would offset any reduction in expenses was not based on evidence actually contained in the record. [*Rich v. Rich*, 2009 PA Super 7, 967 A.2d 400, 2009 Pa. Super. LEXIS 14 \(Pa. Super. Ct. 2009\)](#).

Family Law: Child Support: Taxation

Pursuant to [*Pa. R. Civ. P. 1910.16-2\(f\)*](#), the court determined the dependency tax exemption in favor of the husband, as the wife had no taxable wage earnings although she would continue to pay tax to the Internal Revenue Service on her alimony pendente lite income, and the husband had no business-related deductions and would benefit the most from the deduction under [*Pa. R. Civ. P. 1910.16-4*](#). [*Wagner v. Wagner*, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was opined that a court properly awarded a mother the right to take the parties' three children as dependents for tax purposes pursuant to [*Pa. R. Civ. P. 1910.16-2\(f\)*](#), as the father's income was too high to gain any tax advantage, and the mother could gain a significant advantage which would ultimately benefit the parties' children. [*Sirio v. Sirio*, 2010 Pa. Dist. & Cnty. Dec. LEXIS 209 \(Pa. County Ct. Feb. 23, 2010\)](#), aff'd in part, vacated in part, 29 A.3d 827, 2011 *Pa. Super. LEXIS 1916 (Pa. Super. Ct. 2011)*.

Family Law: Marital Duties & Rights: General Overview

Trial court record in divorce proceedings was insufficient for the appellate court to determine whether the amount of spousal support was correct under the guidelines set forth in [*Pa. R. Civ. P. 1910.16-2*](#) where the only indication of the wife's income was one paystub, which necessitated a remand of the case. [*Hasson v. Hasson*, 696 A.2d 221, 1997 Pa. Super. LEXIS 1623 \(Pa. Super. Ct. 1997\)](#).

Family Law: Marital Termination & Spousal Support: Dissolution & Divorce: Property Distribution: General Overview

In a divorce proceeding, the trial court was required to allocate the support award to reflect the husband's right to claim dependency for one child in order to effectuate economic justice between the parties, to increase the income available for the support award, and to insure a fair and just determination and settlement of their property rights. [Miller v. Miller, 1999 PA Super 347, 744 A.2d 778, 1999 Pa. Super. LEXIS 4715 \(Pa. Super. Ct. 1999\).](#)

Family Law: Marital Termination & Spousal Support: Dissolution & Divorce: Property Distribution: Classification: Retirement Benefits: Pensions

In this *Pa. R. App. P. 1925(a)* proceeding, because a court could include pensions and all forms of retirement when calculating income for spousal support purposes under [Pa. R. Civ. P. 1910.16-2\(a\)\(4\)](#), even though a husband's deferred benefit plan was subjected to equitable distribution, and because the husband voluntarily left his employment, pursuant to [23 Pa.C.S. § 3102\(a\)\(6\)](#), the court's decision should not be disturbed. [Burnelis v. Burnelis, 2011 Pa. Dist. & Cnty. Dec. LEXIS 258 \(Pa. County Ct. Sept. 21, 2011\).](#)

Family Law: Marital Termination & Spousal Support: Spousal Support: General Overview

In this *Pa. R. App. P. 1925(a)* proceeding, because a court could include pensions and all forms of retirement when calculating income for spousal support purposes under [Pa. R. Civ. P. 1910.16-2\(a\)\(4\)](#), even though a husband's deferred benefit plan was subjected to equitable distribution, and because the husband voluntarily left his employment, pursuant to [23 Pa.C.S. § 3102\(a\)\(6\)](#), the court's decision should not be disturbed. [Burnelis v. Burnelis, 2011 Pa. Dist. & Cnty. Dec. LEXIS 258 \(Pa. County Ct. Sept. 21, 2011\).](#)

Trial court properly determined a husband's earning capacity, pursuant to [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#), based on consideration of the requisite factors, including the fact that he was operating his own business while attempting to find other employment and was making substantially less at that point than in his usual employment positions; the trial court had doubted the husband's testimony and evidence and found that he had engaged in conduct to reduce his earnings in order to minimize his financial obligations to his wife. [Isralsky v. Isralsky, 2003 PA Super 162, 824 A.2d 1178, 2003 Pa. Super. LEXIS 1199 \(Pa. Super. Ct. 2003\).](#)

In determining child and spousal support, where a party willfully fails to obtain appropriate employment, pursuant to [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#) his or her income will be considered to be equal to his or her earning capacity. [Isralsky v. Isralsky, 2003 PA Super 162, 824 A.2d 1178, 2003 Pa. Super. LEXIS 1199 \(Pa. Super. Ct. 2003\).](#)

Husband voluntarily reduced his income when he sold stock in a family business from which he regularly received a dividend; the additional income was imputed to husband for purposes of calculating the support level. [Neil v. Neil, 1999 PA Super 117, 731 A.2d 156, 1999 Pa. Super. LEXIS 941 \(Pa. Super. Ct. 1999\).](#)

Trial court record in divorce proceedings was insufficient for the appellate court to determine whether the amount of spousal support was correct under the guidelines set forth in [Pa. R. Civ. P. 1910.16-2](#) where the only indication of the wife's income was one paystub, which necessitated a remand of the case. [Hasson v. Hasson, 696 A.2d 221, 1997 Pa. Super. LEXIS 1623 \(Pa. Super. Ct. 1997\).](#)

Family Law: Marital Termination & Spousal Support: Spousal Support: Imputed Income

Trial court recommended its order, finding the wife's earning capacity was \$ 3,784 per month, be affirmed because the wife's education, training, work experience, and earnings history were all in the legal field, there was nothing in the wife's age or health that precluded her from obtaining a position in that field, and it was not appropriate to assess the wife with a near minimum wage earning capacity in the areas of food preparation, food services, retail

sales, or working as a receptionist. [Oh v. Rho, 2015 Pa. Dist. & Cnty. Dec. LEXIS 218 \(Pa. County Ct. Jan. 20, 2015\)](#).

In support of an affirmance on appeal, it was noted that there was no error in imputing an earning capacity to the wife for purposes of calculating the support obligation because she had voluntarily and willfully refused to work at appropriate jobs. [Stark v. Stark, 31 Pa. D. & C.5th 309, 2013 Pa. Dist. & Cnty. Dec. LEXIS 458 \(Pa. County Ct. July 3, 2013\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), interest payments that a trust documented to the husband were included in his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#); however, as he never received the funds and immediately rolled them over to cover the principal and interest payment due to a bank, a downward deviation of that imputed income was considered. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), investment by a company that the husband owned a majority of into an entity in order to address employee health care costs was a legitimate bona fide business expense, as well as one necessary for the continued operation and smooth running of the business, such that the investment was not imputed into the husband's income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

Family Law: Marital Termination & Spousal Support: Spousal Support: Obligations: General Overview

Trial court properly deducted mandatory pension contributions in determining the father's gross income for child and spousal support purposes, as [Pa. R. Civ. P. 1910.16-2\(c\)\(1\)\(B\)](#) allowed such a deduction from monthly gross income in order to arrive at net income. [Berry v. Berry, 2006 PA Super 98, 898 A.2d 1100, 2006 Pa. Super. LEXIS 655 \(Pa. Super. Ct. 2006\)](#).

Family Law: Marital Termination & Spousal Support: Spousal Support: Procedures

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), the husband's payments of income taxes on behalf of his children, incurred from income from a pass-through entity that was not distributed, was not properly deducted from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); rather, only his own income tax payments were deductible under Rule 1910.16-2(c)(1)(A). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

Master properly concluded that a father's loss on the sale of property that he used as his primary residence was not a loss of income to him under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(2\)](#) for purposes of calculating his child and spousal support obligations, as "income" only included references to "net gains" from dealings in property; the sale of the father's residence was not included therein, and an offset was only allowed against gains from dealings in property and not against any other source of income. [K.J.P. v. R.A.P., 2013 PA Super 126, 68 A.3d 974, 2013 Pa. Super. LEXIS 740 \(Pa. Super. Ct. 2013\)](#).

Trial court recommended its order, finding the wife's earning capacity was \$ 3,784 per month, be affirmed because the wife's education, training, work experience, and earnings history were all in the legal field, there was nothing in the wife's age or health that precluded her from obtaining a position in that field, and it was not appropriate to assess the wife with a near minimum wage earning capacity in the areas of food preparation, food services, retail sales, or working as a receptionist. [Oh v. Rho, 2015 Pa. Dist. & Cnty. Dec. LEXIS 218 \(Pa. County Ct. Jan. 20, 2015\)](#).

With respect to determining a wife's income for support purposes under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)](#), her voluntary 401(k) contributions had to be added back into her income; employer contributions to

the plan were added into the wife's gross income for the year that the sums were available to her where she was the owner of the business and had the sole decision-making authority regarding the contributions. [Myshin v. Myshin, 2012 Pa. Dist. & Cnty. Dec. LEXIS 233 \(Pa. County Ct. Oct. 15, 2012\).](#)

With respect to determining a wife's income for support purposes under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)](#), employer contributions to her 401(k) plan were not added into the wife's gross income for a particular year where the sums were not available until the following year; further, a deduction for depreciation in her business was inappropriate for purposes of support computation under Rule 1910.16-2(c). [Myshin v. Myshin, 2012 Pa. Dist. & Cnty. Dec. LEXIS 233 \(Pa. County Ct. Oct. 15, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), although it appeared that a husband's loan payment was a legitimate personal expense, that did not make it deductible for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); rather, it was a personal expense that was indistinguishable from other non-deductible expenses that had to be paid by spouses in support cases. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), where the husband was a 50 percent owner of a business entity that held real property and he took over his partner's obligations and established payments, such as mortgage expenses, were necessary to maintain or preserve the entity and/or they could be considered bona fide business expenses, they were deductible from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); there was evidence that the entity would have failed without the husband's capital infusion. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite pursuant to [23 Pa.C.S. § 4322](#), where a husband had no ownership interest in an entity although it generated a good return on his investment, and he made a voluntary reinvestment of a sum of money, the interest that he received was income under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), the husband's payments to purchase life insurance premiums were costs associated with his role as an investor and were thus not excludable from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), the husband's interest and dividend income earned from a trust, which was funded in part by contributions from the husband, was not deductible from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#), as they constituted income; however, as the husband never had use of the money and immediately rolled it over, it was considered a factor for deviation. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), capital gains earned in the husband's margin account were excluded from his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#), as the gain was inaccessible to him without significant financial maneuverings. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), as a husband made the ultimate business decisions for a corporation that he controlled and owned a large portion of, those decisions had to be scrutinized in order to determine whether such funds should be imputed as income to the husband and available for support computation purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\).](#)

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), only a portion of a husband's share of loans made by a company that he was a majority owner of to two separate entities, which were in the nature of an investment, were included as his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#), as the record did not reveal that had the loans not been made, that their entire value would have been distributed to the shareholders. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), money that a husband borrowed to pay personal debts was not an item that was properly deductible from income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), to the extent that a husband used certain perquisites, such as a business-provided car, mobile phone, and country club membership, for personal reasons, they were included as income to him for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), loan proceeds that the husband received by borrowing an amount from an entity through a shareholder loan were not included in his income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2\(a\)\(3\)](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite pursuant to [23 Pa.C.S. § 4322](#), although the husband was attributed with considerable income from pass-through entities, as he held minority interests in them and in most cases, the income was retained by the respective entity and not distributed to the husband, it was not available to the husband for support purposes under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#). [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite pursuant to [23 Pa.C.S. § 4322](#), where a husband, who held interests in many business entities, proved that various expenses were bona fide business expenses, they were deducted for purposes of calculating his income under [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#); however, contributions to various entities and the associated costs that arose from voluntary investments were not treated as deductions from his income. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

With respect to a wife's requests for child support and alimony pendente lite under [23 Pa.C.S. § 4322](#), a husband's contractual obligation to invest in a business entity was not a legitimate deduction from net income for support purposes pursuant to [23 Pa.C.S. § 4302](#) and [Pa. R. Civ. P. 1910.16-2](#), even where the decision to invest was made prior to separation; however, it warranted consideration in assessing whether to deviate from the support award determined by the guidelines. [Wagner v. Wagner, 2012 Pa. Dist. & Cnty. Dec. LEXIS 174 \(Pa. County Ct. June 1, 2012\)](#).

Family Law: Parental Duties & Rights: Duties: Support of Children

It was proper for a domestic relations master to impute a higher income to a mother who worked as a teacher's aide as she was a licensed attorney in New York who had practice experience, was voluntarily underemployed, and while she decided not to make the law her career any more, both parents had an obligation to support their child pursuant to their earning capacities, and a parent's earning capacity was determined based on the factors in [Pa. R. Civ. P. 1910.16-2\(d\)\(4\)](#); remand, however, was needed to determine evidence that supported the imputed income figure that the master had chosen. [Scheiner v. Scheiner, 71 Pa. D. & C.4th 192, 2004 Pa. Dist. & Cnty. Dec. LEXIS 294 \(Pa. County Ct. 2004\)](#).

Public Health & Welfare Law: Social Security: Assistance to Families: Child & Spousal Support

Best resolution was to vacate that part of a trial court's order setting the father's basic support obligation at \$ 0.00 and directing the father to split the monthly Social Security derivative benefit of \$ 1,164 with the mother, because the order did not address the support guidelines or the interaction of the order with the federal statutes. Once the father's basic support obligation was established under the guidelines, the court could consider the Social Security derivative benefits as "other income in Father's household" available for child support and deviate upward from the guidelines to effect equity and avoid an unjust or inappropriate result. [Silver v. Pinskey, 2009 PA Super 183, 981 A.2d 284, 2009 Pa. Super. LEXIS 3279 \(Pa. Super. Ct. 2009\)](#).

Public Health & Welfare Law: Social Security: Disability Insurance & SSI Benefits: General Overview

Retroactive recalculation of the parents' respective support obligations was proper upon the discovery that the mother had not reported receipt of benefits, and where the father sought a modification of the obligations as soon as he learned of the benefits; however, the rule requiring that the child's derivative benefits be subtracted from the total income available before the parties' obligations were calculated did not apply retroactively. [Maddas v. Dehaas, 2003 PA Super 23, 816 A.2d 234, 2003 Pa. Super. LEXIS 26 \(Pa. Super. Ct. 2003\)](#).

Public Health & Welfare Law: Social Security: Retirement & Survivor Benefits: General Overview

Father was not required to split Social Security benefits with mother; benefits received by children due to father's retirement had to be added to parents' combined monthly net incomes to calculate income available for support, under [Pa.R.C.P. 1910.16-2\(b\)\(2\)](#). Support amount could be reduced by benefits before apportioning remaining obligation. [Silver v. Pinskey, 2008 PA Super 66, 2008 Pa. Super. LEXIS 268 \(Pa. Super. Ct. 2008\)](#), op. withdrawn, [2008 Pa. Super. LEXIS 1603 \(Pa. Super. Ct. May 30, 2008\)](#), sub. op., different results reached on reconsid., [2009 PA Super 183, 981 A.2d 284, 2009 Pa. Super. LEXIS 3279 \(Pa. Super. Ct. 2009\)](#).

Tax Law: Federal Income Tax Computation: Dependent & Personal Exemptions ([IRC secs. 151-153](#))

Trial court did not abuse its discretion in assigning one of three child dependency tax exemptions to a non-custodial parent, despite the custodial parent's higher income; the exemption provided an incentive for the non-custodial parent to stay current on child support payments. [May v. May, 2003 PA Super 453, 837 A.2d 566, 2003 Pa. Super. LEXIS 4104 \(Pa. Super. Ct. 2003\)](#).

Notes to Unpublished Decisions

Family Law: Child Support: Obligations: Computation: Guidelines

Family Law: Child Support: Obligations: Computation: Imputed Income

Family Law: Child Support: Obligations: Computation: Guidelines

Unpublished decision: In support of an affirmance on appeal under *Pa. R. App. P. 1925*, the father's income and earning capacity were properly calculated for purposes of determining support, as he was unemployed and refused to accept a settlement package from his former employer, such that income was properly imputed to him. [Lyman v. Sterling, 2015 Phila. Ct. Com. Pl. LEXIS 380 \(Pa. C.P. Jan. 22, 2015\)](#), aff'd, 135 A.3d 667, 2015 Pa. Super. Unpub. LEXIS 4712 (Pa. Super. Ct. 2015).

Family Law: Child Support: Obligations: Computation: Imputed Income

Unpublished decision: In support of an affirmance on appeal under *Pa. R. App. P. 1925*, the father's income and earning capacity were properly calculated for purposes of determining support, as he was unemployed and refused to accept a settlement package from his former employer, such that income was properly imputed to him. [Lyman v. Sterling, 2015 Phila. Ct. Com. Pl. LEXIS 380 \(Pa. C.P. Jan. 22, 2015\)](#), aff'd, 135 A.3d 667, 2015 Pa. Super. Unpub. LEXIS 4712 (Pa. Super. Ct. 2015).

PENNSYLVANIA RULES OF COURT

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IN THE COURT OF COMMON PLEAS OF xxxxxxxx COUNTY

Member Name:

Docket Number:

PACSES Case Number:

Other State ID Number:

PHYSICIAN VERIFICATION FORM

TO BE COMPLETED BY THE TREATING PHYSICIAN

Physician's name: _____

Physician's license number: _____

Nature of patient's sickness or injury:

Date of first treatment: _____ Date of most recent treatment: _____

Frequency of treatments: _____

Medication:

The patient has had a medical condition that affects his or her ability to earn income from:

_____ through _____.

If the patient is unable to work, when should the patient be able to return to work? Will there be limitations?

Remarks:

Date: _____

Signature of Treating Physician: _____

Physician's address:

Physician's telephone number: _____

I authorize my physician to release the above information to the _____
County Domestic Relations Section.

Patient's signature: _____

Date: _____