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## JEFFERSON COUNTY MEDIATION SERVICES

Volunteer Colloquium Minutes

May 13, 2014

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Volunteers Present: Neila Achter, Marty Atlas, Robert Blair, Kate Boland, Martha Cecil-Few, Jill Chase, Peggy Evans, Hazel Hanley, Tom Hoffman, Matt Jarvinen, Julie Jarvis, Jo-Marie Lisa, Nuria Lopez, Mac MacInotsh, Mary Mesch, Carrie Noonan, Debbie Plotkin, Elaine Rains, Janine Tarolli, Scott Walker, Vicki Walker, Al Youngs, Celeste Zimmerman

Staff Present: Mark Loye, Julie Carter, Brian Beck and Helena Jo Goldstein

### **I. Welcome**

Mark Loye welcomed everyone to the meeting and asked those present to introduce themselves.

### **II. Presentation: The 2014 Child Support Calculation Program Speakers: Attorney Antonia Ozeroff and Lisa White, Supervisor, Child Support Intake & Establishment Unit**

On January 1, 2014, the law governing child support calculations in Colorado changed. The old Excel spreadsheet format has been replaced by a software program, which can be downloaded for free from the state court website ([www.courts.state.co.us](http://www.courts.state.co.us)). This new program also allows for calculation of maintenance. (In the deductions section you will need to unclick the maintenance button if you do not want to do that calculation. For JCMS mediations, you usually do not want to calculate maintenance; you are almost always looking at an adjustment to child support only. For more information on maintenance, see the minutes from the 3/18/14 Colloquium.)

The presenters went through multiple scenarios for "Joan and Jack." The scenarios were a separate handout, which is available as a separate document. The presenters walked through the calculation worksheet, showing where to enter information. These minutes will include important information that was brought out as the scenarios were discussed. When you finish a mediation session at JCMS, remember to click on the "clear all data" button at the top of the data entry form, to preserve your clients' confidentiality.

Income: generally only the primary, 40 hour/week job is included in income; second jobs are not. Overtime pay is included only if the overtime is required as a condition of the employment. If overtime can be refused, and is accepted only from time to time, overtime income will not be included as income on the worksheet.

In the first scenario, Joan leaves her 32 hour/week job at COSTCO to go back to school to become a teacher. This raised the question of whether she could report \$0 income or whether income would be imputed to her. Generally, zero income can be used in the calculation if the party is in jail, is disabled and unable to work, or is a full time student. (Student loans are not included in income.) The choice to be a student must be reasonable and intended to lead to a better income in a practical amount of time. The issue will be whether pursuing an education will be a benefit to the child or whether the parent is shirking their responsibility. If the child is 15 years old, and the parent starts a five year course of study, that education will not benefit the child. (Children are considered emancipated the month they turn 19, or the

month they graduate from high school, if that comes later.) There is a lot of room to mediate these questions. If CSS does not accept the full-time student status, 20-40 hours per week of minimum wage income will be imputed to the parent. (Minimum wage in Colorado is \$8.00 per hour or \$4.98 per hour if the employee receives tips.) If the parent left a lucrative job, they may be imputed with the amount of their former income (i.e., much more than minimum wage). There are no specific guidelines to cover if a parent leaves full-time employment to start their own business - this scenario is wide open for mediation.

The question was raised whether a work schedule of 32 hours per week would be considered underemployment. If that work schedule saves on child care expenses, it would most likely not be considered underemployment. In the past, an additional eight hours per week of at least minimum wage income might have been imputed to someone like Joan. But more and more large employers will not let employees work more than 32 hours per week, and so income is being imputed in these situations less frequently.

The second scenario revisits Joan and Jack two years later. A change could be made in child support because there was a substantive and continuing change in the situation. Joan has finished school and is working as a teacher for nine months of the year. She earns \$36,000 annually from that job, and the salary is paid out over 12 months. She works during the summer months at a pre-school, for which she earns \$1500, and she also babysits. An argument can be made that the teaching position is Joan's full-time job, and the work at the pre-school should not count as income (for the purpose of calculating child support). CSS would probably count that income, however, because otherwise she would be underemployed (not working three months per year). The baby-sitting is clearly an extra job and that income would not be entered on the worksheet. Joan could probably argue that some summers she has to take mandatory continuing-education classes, and so would not be underemployed even if she did not work at the pre-school.

Jack is receiving unemployment compensation at two-thirds of his former income. The fact that he is receiving these benefits means it was determined that he did not voluntarily leave his employment. Therefore, he will not be considered voluntarily un- or under-employed, and his benefits amount will be used as his income in the child support calculation. Currently, unemployment payments may go on for several years. When Jack gets a job, the child support amount can again be recalculated. If Jack receives Food Stamps, that will not be included in income. Food Stamps are based on need (lack of income, also called "means tested") and by statute no benefit that is based on need is ever included in the child support calculation.

If Jack ceases to receive unemployment income, he will be imputed with forty hours a week of minimum wage. If Jack has only been looking for work as a mechanic, Joan may argue he is shirking his duty as a father, and should be imputed with more income than minimum wage. Again, this is a good area for mediation.

Two years later, Scenario 3 finds Jack in jail. Before he went to jail he had been living with his mother Jill, and the child (Ben) spent enough time there to become attached to Jill. Joan's career now keeps her very busy, and also she has married a wealthy man who has three children. This husband and his children do not get along with Ben. Ben spends more overnights with Jill than he does with his Mom. This is a caretaker relative situation. None of Jill's income is at issue in the child support calculation, nor is the income of the new husband. Only the bio parents (Jack and Joan) have the obligation to support Ben. To calculate what Joan and Jack must pay Jill for child support you will need to run two calculations. First you run the calculation with Joan and Jack's income entering that Mom has no overnights. What the calculation says she should pay Jack is what she will actually pay Jill. Then you run the calculation again, giving Jack no overnights; that will tell you how much he must pay Jill. In other words, both parents will be paying child support to Jill. Although the guidelines provide that \$0 income may be allocated for a person who is incarcerated with a sentence of a year or more, Child Support

Services would make a \$0 income allocation as long as the prison sentence is six months or more. However, by law he will still be required to pay a minimum amount of \$50 per month. The caretaker relative cannot ask for support from only one parent. If CSS is involved in the case, they will insist on a support order for both parents.

Scenario 4 involves Ben's older cousin Brad. He fathered a child with his ex-girlfriend Barb. She is currently staying home with the baby, which Brad considers "taking advantage of the situation." By statute, if the party is home taking care of a child under 30 months old, AND it is the child of the two people for whom you are calculating child support, that party can report zero income on the worksheet. If Barb were home with another child fathered by a new boyfriend, she would have income imputed to her. The child support calculations only allow credit for non-joint children if they were born prior to the joint child. If Brad gets injured on the job, and goes on leave and receives disability payment, the disability payments would be taken as his income (employment-based disability payments are not "means tested" benefits).

Mr. Loye thanked Ms. Ozeroff and Ms. White for their very informative presentation, and thanked everyone who attended for participating in the discussion and asking good questions, and he wished all a good evening.

**IV. Next Colloquium: Generally the Volunteer Colloquia are presented on the third Tuesday of odd numbered months. No Colloquium is held in July due to summer schedules.** Suggestions for meeting topics are always welcome!

The meeting was adjourned.

Submitted by: Helena Jo Goldstein  
Helena Jo Goldstein, Programs Manager  
Approved by: Mark Loye  
Mark Loye, Director