

# A Guide to Child Support & Spousal Maintenance Cost-of-Living Adjustments

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*(The information contained in this document is available on our website.)*

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This packet is updated periodically by the OESW, but the only page that routinely changes is Page 17--The CPI Table.

*The **OFFICE ON THE ECONOMIC STATUS OF WOMEN**  
is a legislative advisory office charged with studying all matters  
relating to the economic status of women in Minnesota.*

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# Cost-of-Living Adjustments in Child Support/Spousal Maintenance Orders

The purpose of this packet is to help you obtain a cost-of-living adjustment to your child support or spousal maintenance order. *These forms should only be used for court orders that were issued in the state of Minnesota.* If your divorce or child support order is from another state, you cannot use this packet.

***If you receive child support or spousal maintenance without the county's assistance:***

Your child support/spousal maintenance order may include language which states you are entitled to an “automatic” cost-of-living adjustment every two years. However, the adjustment in your child support/spousal maintenance does *not* happen automatically. You need to determine what the adjustment should be and then notify the person who pays the child support/spousal maintenance what the new amount is and when it is to take effect. This can be done any month as long as it has been two years since the last adjustment. You must also file the *original* forms in this packet with the court where your child support or divorce decree was finalized. If the child support or spousal maintenance is paid to you directly from his/her employer, you will also need to send copies of the forms to the employer indicating the new amount of the withholding.

***If the county is collecting child support on your behalf:***

If the county child support office is collecting child support for you, that office will take care of calculating the biennial cost-of-living adjustment from the person who pays your child support. The county will do this adjustment in May, regardless of the dates of your original child support and/or spousal maintenance orders. If the county is collecting both child support and spousal maintenance for you, that office will also take care of calculating the cost-of-living adjustment.

***If the county is only collecting spousal maintenance on your behalf:***

If the county is only collecting spousal support for you, you must calculate the cost-of-living adjustment yourself (*as of May 1996, county child support enforcement offices no longer compute cost-of-living adjustments for spousal maintenance when there is no child support order*). You need to determine what the adjustment should be and then notify the person who pays the child support/spousal maintenance what the new amount is and when it is to take effect. This can be done any month as long as it has been two years since the last adjustment. You must also file the *original* forms in this packet with the court where your child support or divorce decree was finalized and file copies with the Child Support Enforcement Office in the county when the payments are sent. If the child support or spousal maintenance you receive is paid directly from his/her employer to the Child Support Enforcement Office, you will also need to send a copy of the forms to the employer.

# Questions and Answers about Cost-of-Living Adjustments

- ***What is a cost-of-living adjustment?***
- ***Are you eligible for a cost-of-living adjustment?***
- ***When should you file for the adjustment?***
- ***How is the amount determined?***
- ***Where do you file these papers?***
- ***What is a modification of child support?***

## ***What is a cost-of-living adjustment?***

Most child support orders issued in Minnesota since August 1, 1983, have included a requirement that the child support amount be adjusted every two years based on changes in the cost of living. The cost-of-living adjustment reflects the change over a period of time in what we pay for items such as food, clothing, housing, etc.

Cost-of-living adjustments are designed to help you keep up with inflation--to recognize that the costs of caring for your children today are higher than they were when your child support was established. Because of inflation, clothing and food cost more today than when child support was established. Inflation rates can fluctuate significantly and it is important to keep cost-of-living adjustments up to date because of this.

## ***Are you eligible for a cost-of-living adjustment?***

You should check your child support/spousal maintenance order to see if it provides for a cost-of-living adjustment. Usually this information appears in Appendix A of the order or divorce decree.

If there is no reference to a cost-of-living adjustment in your child support/spousal maintenance order, you must first go through the process of adding this provision. If you receive child support or both child support and spousal maintenance, ask the Child Support Enforcement Office in your county for help. This office will not help if you have spousal maintenance only. If you receive only spousal maintenance, you should talk to an attorney about adding a cost-of-living adjustment provision to your order.

## ***When should you file for the cost-of-living adjustment?***

Even though you are entitled to a cost-of-living adjustment, you must *request* the adjustment when two years have passed. It does *not* happen automatically unless the county is collecting child support for you.

You can only request an adjustment every two years. You can't ask for an adjustment every year.

*(Continued on next page)*

## Questions and Answers about Cost-of-Living Adjustments (cont.)

### *When should you file for the cost-of-living adjustment (continued)?*

If it has been greater than two years since the last adjustment or change to your order, or it has been greater than two years and no prior adjustment or change has been made, you can compute the adjustment for the time you missed. Two court decisions have upheld the right to do so.

In Braatz v Braatz, 489 N.W.2d, 262 (Minn. Ct. App. 1992), the court decided that the “statute does not preclude the district court from adjusting a support obligation based on the cost-of-living adjustment over a period greater than two years where no prior cost-of-living adjustment has been made.” In Huizinga v. Huizinga, 529 N.W.2d, 512 (Minn. Ct. App. 1995), the court further clarified that the discretion of the district court is limited to “determining whether all or part of the cost-of-living adjustment should not take effect.” The burden is on the person who pays. “The cost-of-living adjustment shall take effect unless the obligor establishes an insufficient adjustment in income.”

### *How is the amount of the adjustment determined?*

The adjustment you are entitled to is based on the **Consumer Price Index (CPI)**. This is a standard measure of the inflation rate and is determined by the U.S. Department of Labor. Your child support/ spousal maintenance order might specify which CPI you must use. If it does, you must use the CPI indicated in your order. If not, *you may choose* either of the following CPIs to calculate the adjustment but you must be consistent with index you use (e.g. both must be the monthly CPI-U's or both must be the semi-annual MSP CPI-U's).

The CPI table on page 17 of this packet lists two different CPIs. They are the monthly CPI-U and the semi-annual MSP CPI-U. The “U” stands for “urban consumers” and “MSP” represents a measure of the inflation rate specifically for the Minneapolis/St. Paul region. Again, you must use the CPI measure stated in your child support order or divorce decree, if any. **Note: The MSP CPI is available only twice a year. The MSP CPI listed in the January column of the table reflects July through December of the preceding year, and the MSP CPI listed in the July column of the table reflects January through June of that year.**

There are also several base years for the CPI. The numbers in the CPI table in this packet use the year 1967 as the base year. It does not matter which base year you use, but you must use the same base each time you calculate an adjustment.

### *Where do you file these papers?*

After completing the forms in this packet (pages 10, 13 and 14) you should make several copies of them.

- 1) Send all the **original** forms (pages 10, 13 and 14) to the court where your child support order or divorce decree was finalized, to be placed in your file. You may have to call the court administrator’s office in that county to get the address.

*(Continued on next page)*

## Questions and Answers about Cost-of-Living Adjustments (cont.)

### *Where do you file these papers (continued)?*

- 2) Send *copies* of pages 10 and 13 to the person responsible for paying child support/spousal maintenance.
- 3) Send *copies* of pages 10 and 13 to the employer if the person is paying you through his or her employer.
- 4) If you are receiving spousal maintenance only and your ex-spouse sends the payments through the county, you should also send *copies* of pages 10 and 13 to the county child support enforcement office.
- 5) Finally, be sure to keep *copies* of all the forms for your own records.

### *What is a modification of child support?*

By law, child support should be set according to Minnesota's child support guidelines. These guidelines set a percentage of the obligor's income based on the size of the obligor's net monthly income and the number of children for whom support is being determined. If you feel the amount of child support is not appropriate based on the guidelines, you may wish to consider a legal *modification* of your child support award. The *modification* process— which will involve a review of the payor's income— is entirely different from the *cost-of-living adjustment* process.

#### **Child support orders can be modified if there is:**

- a substantial\* increase or decrease in either parent's earnings; or
- a substantial increase or decrease in the needs of a parent or child; or
- a change in the child's or parent's cost of living; or
- extraordinary medical expenses for the child; or
- a new or increased or decreased need for paid child care services because of work or education needs of the custodial parent; **and**
- any of these changes make the terms of the original order unreasonable or unfair.

*\*It is presumed that there is a substantial change in circumstances and the order is unreasonable and unfair if:*

- current support is 20 percent and \$50 higher or lower than the guidelines;
- the medical support provisions are not enforceable;
- the health coverage ordered is not available to the child for whom the order is established;
- or
- the existing order is in the form of a percentage, not a dollar amount.

To pursue a modification of child support, ask the Court Administrator's office in your county for a form to request a modification in child support. If the county is providing child support services, either parent may request in writing that the child support office review their support order to see if the requirements for a modification are met. If so, the county may request a modification in child support in the expedited child support hearing process.

## **Step-by-Step: How to Determine**

## your Adjustment and File it Properly

If your child support/spousal maintenance order says you are entitled to a cost-of-living adjustment, *you must do all of the following things:*

- 1. Calculate the amount of adjustment you should receive.**  
To do this, complete the Cost-of-Living Adjustment Form Worksheet on page 8, using the instructions on pages 6 and 7, and the CPI Table on page 17. Then fill out the Cost-of-Living Adjustment Form on page 10.
- 2. Notify the person who pays the child support/spousal maintenance.**  
You must send the person who pays you child support/spousal maintenance a notice that it is time to raise the amount he or she pays based on the cost-of-living adjustment. Use the Letter of Notification Worksheet (page 12) and instructions (page 11) to do this. Then fill out the Letter of Notification (page 13) and send a copy of it with a copy of the Cost-of-Living Adjustment Form (page 10) to the person who pays child support/spousal maintenance. You must give the person at least 20 days notice before the date you expect to be paid the new amount. (For example, if the adjustment is to be effective August 1, the letter and notice must be postmarked by July 10.) If you are being paid through an employer, send a set of copies to the employer. If you receive spousal maintenance payments through the county, send copies to the county. ( Note: If the employer pays the county, send to both.)
- 3. File the forms with the court.**  
You must file the *original* Cost-of Living Adjustment Form (page 10), the *original* Letter of Notification (page 13) and the *original* notarized Affidavit of Service by Mail (page 14) with the court administrator's office in the county where your child support/spousal maintenance order was filed. Fill out the Affidavit of Service by Mail (page 14), **except for your signature**. *It has to be notarized (witnessed) by a notary public*. The court may have a notary public available or you may find one at a local bank. Call the court administrator's office in the county where your child support/spousal maintenance order was entered if you have questions about where to mail the papers to the court so that they can be placed in your file.
- 4. The adjustment will take effect or a hearing will be held.**  
The person who pays you child support/spousal maintenance has the right to request a hearing in court to ask not to pay part or all of the cost-of-living adjustment. If a hearing is requested, the court will send you a notice about this hearing before the effective date of your cost-of-living adjustment. If the person who pays you has not had an increase in income over the past two years, the court *could* decide not to require an adjustment. The hearing may not occur until some time after the effective date you had requested. If the person who pays you does *not* request a hearing, the new amount *must* be paid by the date you have specified. Otherwise, he or she is in violation of the child support/maintenance order.



# Instructions for Cost-of-Living Adjustments Form Worksheet

*(Use this to help you fill out page 8)*

- 1** Write in the name of the county where your child support/spousal maintenance order was issued, the name of the court where it was issued (this should appear on your order as “County” or “District” court), the judicial district and the case number. All of these should be indicated in your child support order or your divorce decree.
- 2** This section should be exactly the same as it appears at the beginning of your child support/spousal maintenance order. You may have to change this form. You may have to cross out “In Re the Marriage of” if your child support was not part of a divorce settlement. You may have to change “Petitioner” to “Plaintiff” and “Respondent” to “Defendant.” Use your child support/spousal maintenance order as your guide.
- 3** Fill in the date when your child support/spousal maintenance order was final. This date should appear at the front of the order or divorce decree.

*Now you are ready to do the actual calculations to determine the amount of your adjustment.*

## **STEP 1.**

Insert the current amount of child support/spousal maintenance you are now entitled to, based on your child support order or divorce decree. Include any previous adjustments or increases.

## **STEP 2.**

Follow the directions for Step 2 on the worksheet. If the CPI table on page 17 does not have the most recent CPI number, call the Bureau of Labor Statistics Consumer Price Index hotline at (612) 725-3580. Use the appropriate CPI index (CPI-U or Mpls/StP CPI-U) with the “1967 Base”. The CPI table is also available on the OESW website or at <http://stats.bls.gov> (see the information at the bottom of page 17). Remember that the Mpls/StP CPI is only available twice each year. The CPI numbers in the table are *not* dollar amounts.

## **STEP 3.**

Follow the directions for Step 3 on the worksheet.

## **STEP 4.**

Follow the directions for Step 4 on the worksheet. If the number you get after subtracting is bigger than the number in Step 2, check your figures.

*(Continued on next page)*

**STEP 5.**

Follow the directions for Step 5 on the worksheet. Dividing the number in Step 4 by the number in Step 3 will give you the cost-of-living adjustment. The number will have a decimal in front of it. You need to fill in only the first three numbers after the decimal point. (For example .08632 can be written .086)

**STEP 6.**

Follow the directions for Step 6 on the worksheet. Multiplying the number in Step 5 by the number in Step 1 will give you the *dollar adjustment* to your child support or spousal maintenance.

**STEP 7.**

Follow the directions for Step 7 on the worksheet. Adding the number in Step 6 to Step 4 will give you the total amount of the new child support/spousal maintenance, including the adjustment.

**IN THE LAST LINE** insert the date when the new child support or spousal maintenance amount will take effect (you must give 20 days notice), how often you receive child support or spousal maintenance (weekly, monthly, etc.), and the new amount of the child support/spousal maintenance payment from Step 7.

***NOTE:** If you are receiving both child support and spousal maintenance you should figure the cost-of-living adjustments for each separately, so that the legal record is clear. You may combine these two into one dollar amount to put on this form.*

**Cost-of-Living Adjustment Form  
Worksheet**  
*(Use with instructions on pages 6 and 7)*

<b>1</b>
<b>STATE OF MINNESOTA</b>
County _____
Court _____
Judicial District _____
Case # _____

<b>2</b>
<b>In Re the Marriage of:</b>
_____, Petitioner and
_____, Respondent

All of the above information should be indicated on your child support order or divorce decree.

**3** The cost-of-living adjustment in child support or spousal maintenance requested in Step 7 below has been calculated pursuant to Minn. Stat. 518A.75 and the Child Support Order/Spousal Maintenance order dated \_\_\_\_\_

**STEP 1.**

Current child support or spousal maintenance order amount. \_\_\_\_\_

**STEP 2.**

The most recent CPI-U. Look this number up on the CPI Table on page 17. (See the bottom of the CPI Table for information on how to get the most recent CPI number.)

Write CPI number here. \_\_\_\_\_

Write which month \_\_\_\_\_ and year \_\_\_\_\_ you used from the CPI table.

If you are filing this request to get an adjustment by the first day of a month, the most recent CPI available will be from several months earlier, depending upon when you file this form. The CPI for any given month is available about the 15th of the following month. (For example, the CPI for June will be available about July 15.)

If your child support/spousal maintenance order says you must use the Mpls./St. Paul CPI-U, use the same table. The Mpls./St. Paul CPI numbers are not available on a monthly basis. They are available only twice each year. You must use the last available figure listed in the table. For example, if you are doing this in April and need the Mpls./St. Paul CPI, you must use the January figure.

**STEP 3.**

The CPI-U for two years ago\* (or since the last change). Look this up on the CPI table on page 17.

Write CPI number here. \_\_\_\_\_

Write which month \_\_\_\_\_ and year \_\_\_\_\_ you used from the CPI table.

\*If you have not filed for a cost-of-living adjustment before, use the same month and same year your child support or maintenance order was final. If you have received a cost-of-living adjustment before, use the same month you used in Step 2 when you last filed. Use the most recent CPI shown in the CPI table or use the information at the bottom of page 17 to get the most recent numbers.

**STEP 4.**

Subtract the number in Step 3 from the number in Step 2.

Write your answer here. \_\_\_\_\_

**STEP 5.**

Divide the number you got in Step 4 by the number in Step 3.

Write your answer here. \_\_\_\_\_

**STEP 6.**

Multiply the number in Step 5 by the number in Step 1.

Write your answer here. \_\_\_\_\_

**STEP 7.**

Add the number in Step 6 to the number in Step 1

Write your answer here. \_\_\_\_\_

*(The amount in Step 7 is the new child support/spousal maintenance amount.)*

**NOTICE:** Beginning \_\_\_\_\_ the new \_\_\_\_\_ child support/

(month, day, year)

(monthly, weekly, etc.)

spousal maintenance amount is \_\_\_\_\_.

(new amount)

*You are now ready to complete the cost-of-living adjustment form on page 10. When you are done, remove it from this booklet and use it to make two copies\*\* , one for yourself and one for the person who pays you child support and/or maintenance. File the original along with the original forms on pages 13 and 14 with your other child support/spousal maintenance records at the court.*

**\*\*Note:** *If you are being paid directly by your ex-spouse’s employer, you will also need to send a copy to the employer. If you are receiving spousal maintenance only, you may also need to send copies to your ex-spouse’s employer and to the Child Support Enforcement Office if the payments are sent to them.*

# Cost-of-Living Adjustment Form

**1**

STATE OF MINNESOTA

County \_\_\_\_\_

Court \_\_\_\_\_

Judicial District \_\_\_\_\_

**2**

In Re the Marriage of:

\_\_\_\_\_, Petitioner and

\_\_\_\_\_, Respondent

**3**

The cost-of-living adjustment in child support or spousal maintenance requested in Step 7 below has been calculated pursuant to Minn. Stat. 518A.75 and the Child Support/Spousal Maintenance Order dated \_\_\_\_\_ .

**STEP 1.**

Current child support or spousal maintenance order amount \_\_\_\_\_

**STEP 2.**

The most recent CPI-U \_\_\_\_\_  
Month used \_\_\_\_\_ Year used \_\_\_\_\_

**STEP 3.**

The CPI-U for two years ago (or since the last change) \_\_\_\_\_  
Month used \_\_\_\_\_ Year used \_\_\_\_\_

**STEP 4.**

Subtract the number in Step 3 from the number in Step 2.  
Write answer here. \_\_\_\_\_

**STEP 5.**

Divide the number you got in Step 4 by the number on the line in Step 3.  
Write answer here. \_\_\_\_\_

**STEP 6.**

Multiply the number in Step 5 by the number in Step 1.  
Write answer here. \_\_\_\_\_

**STEP 7.**

Add the number in Step 6 to the number in Step 1. This is the new child support/spousal maintenance payment. Write answer here. \_\_\_\_\_

**NOTICE:** Beginning \_\_\_\_\_ the new \_\_\_\_\_ child support/ spousal maintenance amount is \_\_\_\_\_.

# Instructions for Letter of Notification Worksheet

*(Use with page 12)*

1. Insert the date you will send this notice.
2. Insert the name of the person who pays child support/spousal maintenance and his/her address.
3. Fill in the names of the “Petitioner” and the “Respondent” as they appear on your original child support order or divorce decree. They may appear as “Plaintiff” and “Defendant” on your court order.
4. Insert the court file number that appears on your original child support court order or divorce decree.
5. Insert the name of the person who pays child support/spousal maintenance.
6. Insert the date when your cost-of-living adjustment should become effective. (You must give at least 20 days notice.)
7. If the cost-of-living adjustment is mentioned in Appendix A of your order, write “Appendix A.” If it is in your order write “paragraph” followed by the number of the paragraph where the adjustment is mentioned. If your child support/spousal maintenance order does not contain a cost-of-living adjustment, write “Minnesota Statute 518A.75.” If you do this, skip number 8 below and go to instruction number 9.
8. Insert whether the child support/spousal maintenance order is part of a “judgement and decree” (which is your divorce document) or from an “order”, if you have a child support/spousal maintenance order issued by the court.
9. Insert the amount of child support/spousal maintenance you are currently entitled to, including how often you receive it (weekly, monthly, etc.) according to your original child support/spousal maintenance order.
10. Insert the new child support/spousal maintenance amount you calculated in Step 7 on the Cost-of-Living Adjustment Form.
11. Insert the same date you used in # 6 above.
12. Print and sign your current name here. Include your address. Including an address is important for notification purposes if the obligor contests the cost-of-living adjustment. If you have concerns about including an address, you may consider an alternative such as using a P.O. box as an address or using a relative or friend’s address. Another option would be to apply for collection services with the public authority and request that your address be protected. If you choose this option you would have to wait for the next cost-of-living adjustment cycle to have the public authority automatically notice the obligor of a cost-of-living adjustment.

# Letter of Notification Worksheet

*(Use instructions on page 11)*

- 1) Date \_\_\_\_\_
- 2) Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_
- 3) (In Re the Marriage of:) \_\_\_\_\_, Petitioner  
and \_\_\_\_\_, Respondent
- 4) Court File No: \_\_\_\_\_ (Case # from Cost-of-living Adjustment Form)
- 5) Dear \_\_\_\_\_,  
Please be advised that a cost-of-living adjustment to the child support/spousal maintenance amount you pay will become effective on **6)** \_\_\_\_\_, 20\_\_\_\_\_. The adjustment is more fully explained and consistent with the terms of **7)** \_\_\_\_\_ of the **8)** \_\_\_\_\_.

Prior to the effective date of the adjustment, you have the right to request a court hearing on whether the cost-of-living adjustment should take effect and obtain an ex parte stay of the imposition of the cost-of-living adjustment pending the outcome of the hearing. *Forms for you to do this are available from the court administrator's office.* The cost-of-living adjustment upon the child support/spousal maintenance obligation of **9)** \$ \_\_\_\_\_ per \_\_\_\_\_ ordered by the court will take effect, if you fail to schedule such a hearing and obtain an ex parte court order.

My calculations as to the amount of the adjustments are enclosed. By these computations, you should be paying **10)** \$ \_\_\_\_\_ per \_\_\_\_\_ for your child support/spousal maintenance obligation starting on **11)** \_\_\_\_\_, 20 \_\_\_\_.

Sincerely,

- 12)** \_\_\_\_\_  
Name Street Address  
\_\_\_\_\_  
Signature City, State, Zip code

*You are now ready to complete the Letter of Notification on page 13. When you are done, remove it from this booklet and use it to make two copies\*\* , one for yourself and one for the person who pays you child support and /or maintenance. File the original along with the originals of pages 10 and 14 with your other child support/spousal maintenance records at the court.*

**\*\*Note:** *If you are being paid directly by your ex-spouse's employer, you will also need to send a copy to the employer. If you are receiving spousal maintenance only, you may also need to send copies to your ex-spouse's employer and to the Child Support Enforcement Office if the payments are sent to them.*

# Letter of Notification

Date \_\_\_\_\_

To: Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

## Notice of Cost-of-living Adjustment In Re the Marriage of:

\_\_\_\_\_, Petitioner and

\_\_\_\_\_, Respondent

Court File No: \_\_\_\_\_

Dear \_\_\_\_\_,

Please be advised that a cost-of-living adjustment to the child support/spousal maintenance amount you pay will become effective on \_\_\_\_\_, 20\_\_\_\_. The adjustment is more fully explained and consistent with the terms of \_\_\_\_\_ of the \_\_\_\_\_.

Prior to the effective date of the adjustment, you have the right to request a court hearing on whether the cost-of-living adjustment should take effect and obtain an ex parte stay of the imposition of the cost-of-living adjustment pending the outcome of the hearing. *Forms for you to do this are available from the court administrator's office.* The cost-of-living adjustment upon the child support/spousal maintenance obligation of \$\_\_\_\_\_ ordered by the court will take effect if you fail to schedule such a hearing and obtain an ex parte court order.

My calculations as to the amount of the adjustments are enclosed. By these computations, you should be paying \$\_\_\_\_\_ per \_\_\_\_\_ for your child support/spousal maintenance obligation starting on \_\_\_\_\_, 20\_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*City, State, Zip code*



# Affidavit of Service by Mail

State of Minnesota )

County of \_\_\_\_\_)

*(county where filing cost-of-living adjustment)*

\_\_\_\_\_ of the City of \_\_\_\_\_ County of \_\_\_\_\_  
\_ *(your name)* *(your current residence)*

in the State of \_\_\_\_\_, being duly sworn says that on the \_\_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_\_ he/she served the Cost-of-living Adjustment Form and Letter of Notification on

\_\_\_\_\_ by mailing to him/her a copy of it,  
*(name of child support/spousal maintenance payor)*

enclosed in an envelope, postage prepaid, and by depositing it in the post office at

\_\_\_\_\_ directed to him/her at the last known address, at  
*(city where mailed)*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ *(address of child support /spousal maintenance payor)*

\_\_\_\_\_  
*(sign your name here in front of the Notary Public)*

Subscribed and sworn before me

this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
*(month)*

\_\_\_\_\_  
**Notary Public**

# Cost-of-Living Adjustments in Maintenance or Child Support Orders--Minnesota's Law

## MN STAT. 518A.75

### **518A.75 Cost-of-living adjustments in maintenance or child support order.**

**Subdivision 1. Requirement.** (a) An order establishing, modifying, or enforcing maintenance or child support shall provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment shall become effective. The court may use the consumer price index for all urban consumers, Minneapolis-St. Paul (CPI-U), the consumer price index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the department of labor which it specifically finds is more appropriate. Cost-of-living increases under this section shall be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

(b) The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance or child support has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14. Notice of this statute must comply with section 518.68, subdivision 2.

**Subd. 2. Notice.** No adjustment under this section may be made unless the order provides for it and the public authority or the obligee, if the obligee is requesting the cost-of-living adjustment, sends notice of the intended adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice shall inform the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment.

**Subd. 2a. Procedures for contesting adjustment.** (a) To contest cost-of-living adjustments initiated by the public authority or an obligee who has applied for or is receiving child support and maintenance collection services from the public authority, other than income withholding only services, the obligor, before the effective date of the adjustment, must:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the public authority and the obligee.

The hearing shall take place in the expedited child support process as governed by section 484.702.

(b) To contest cost-of-living adjustments initiated by an obligee who is not receiving child support and maintenance collection services from the public authority, or for an obligee who receives income withholding only services from the public authority, the obligor must, before the effective date of the adjustment:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the obligee.

The hearing shall take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the cost-of-living adjustment shall be stayed pending further order of the court.

(d) The court administrator shall make available pro se motion forms for contesting a cost-of-living adjustment under this subdivision.

**Subd. 3. Result of hearing.** If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted

maintenance or child support obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment shall take effect as of the date it would have become effective had no hearing been requested.

**Subd. 4.** Repealed, 1Sp2001 c 9 art 12 s 20

**Subd. 5.** Repealed, 1Sp2001 c 9 art 12 s 20

**History:** 1983 c 308 s 24; 1984 c 654 art 5 s 58; 1988 c 668 s 25; 1991 c 266 s 8,9; 1993 c 322 s 15; 1997 c 187 art 2 s 14; 1997 c 245 art 1 s 30; 1999 c 196 art 2 s 21; 1Sp2001 c 9 art 12 s 15-18; 2002 c 379 art 1 s 113; 2005 c 164 s 29; 1Sp2005 c 7 s 28

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## Other Sources of Information

### Consumer Price Index (CPI)

See the CPI table on page 17 of this packet for more information, including the telephone number for a recorded message with the most recent CPIs. If you have Internet access go to the CPI table on the OESW's website: [www.commissions.leg.state.mn.us/oesw/cola/cpi.htm](http://www.commissions.leg.state.mn.us/oesw/cola/cpi.htm) or the Bureau of Labor Statistics' website: <http://stats.bls.gov>. Instructions on how to locate CPI numbers on the Bureau of Labor Statistics' website are listed below the CPI table on page 17 of this guide.

### Legal Services

The Child Support Enforcement Office (CSEO) in each county can help establish paternity, get an order for child support, enforce an existing order, collect payments and more. Child support offices also take the steps to obtain cost-of-living adjustments in the child support orders they enforce. CSEO telephone numbers are often listed in the county government sections of phone books. Additional information about CSEO services is available on the internet at:

[www.dhs.state.mn.us/main/groups/children/documents/pub/dhs\\_id\\_008807.hcsp](http://www.dhs.state.mn.us/main/groups/children/documents/pub/dhs_id_008807.hcsp)

If your child support case is complicated, you may need to hire a private attorney experienced in family law. You may contact the following county bar associations for referral to an attorney: Dakota county: 952-431-3200; Hennepin county: 612-752-6666; Ramsey county and metro area: 651-224-1775.

For all other Minnesota counties there is the [www.mnfindalawyer.com](http://www.mnfindalawyer.com) website.

If you cannot afford an attorney, you may be able to locate low-cost legal services through area Legal Aid Societies or legal advice clinics. However, legal aid programs have income restrictions and limit the types of cases they accept. For answers to legal questions, contact information for legal aid offices, links to courthouses and local community organizations see the [www.lawhelpmn.org](http://www.lawhelpmn.org) website.

Chrysalis Center for Women offers legal services through law clinics, legal information sessions, and provides referrals to legal agencies, legal programs, and private lawyers. Chrysalis' telephone number is 612-871-0118 and their website for legal resources is [www.chrysaliswomen.org/legal/resources.htm](http://www.chrysaliswomen.org/legal/resources.htm).

### Modification Forms

The court administrator's office may have modification forms available. If the county is providing child support services, either parent may request in writing that the child support office review their support order to see if the requirements for a modification are met. If so, the county may request a modification in child support in the expedited child support hearing process.

### Notary Public

A bank in your area or the court office may have a Notary Public to help you sign the Affidavit of Service in this packet. Additional listings may be available in the yellow pages under "Notaries Public."