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A Guide to Child Support Cost-of-Living Adjustments

**Legislative Commission on the Economic Status of Women
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St. Paul, MN 55155
(612) 296-8590 or 1-800-652-9747**

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Cost of Living Adjustments for Child Support

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

Your child support order may mention that you are entitled to an "automatic" cost of living increase every two years. However, the increase in your child support *does not* happen automatically. You need to determine what the increase should be and then tell the person who pays you child support what the new amount is and when it is to take effect. You must also file the forms in this packet with the court.

If your child support is being collected by the county for you, the county child support office will take care of getting the cost-of-living increase every two years. This will take place on May 1, regardless of the date of your child support order.

A cost-of-living adjustment is different from a *modification* of your original child support amount

You may feel your original child support award is too low to meet your child's current needs. Child support orders can be changed if:

- there is a substantial increase or decrease in either parent's earnings;
- there is a substantial increase or decrease in the needs of one party; or
- either parent begins receiving Aid to Families with Dependent Children or General Assistance (GA) *and*
- if these changes make the terms of the original order unreasonable or unfair.

These types of changes in child support are usually larger than a cost of living increase and are called *modifications*. Ask the Court Administrator in your county for a form to request a modification in child support. In most counties the judge will ask the county attorney to represent you at a modification hearing and you will not have to hire a private attorney.

WHAT is a cost of living increase?

Most child support orders 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*--what we have to pay for such goods as food, clothing, housing, etc. Recent cost-of-living increases over a two-year period have ranged from 7 to 10 percent.

ARE you eligible for a cost-of-living increase?

You should check your child support order to see if it mentions a cost of living increase. Usually this information appears in the appendix.

If there is no reference to a cost-of-living adjustment in your child support order, you must first go through the process of adding this provision. Talk to a private attorney about this or ask your county Child Support Enforcement office if they can help.

WHEN should you file for the increase?

Even though the cost-of-living increases are mentioned in your support order, you must request the increase when two years have passed. *It does not happen automatically.*

You can only request an increase every two years from the original date of your child support order. You can not ask for an increase every year. If you missed some years, you can only go back two years to determine the increase.

HOW is the amount of the increase determined?

The increase you are entitled to is based on the Consumer Price Index (CPI). This is a standard measure of the inflation rate used by the federal government and determined by the U.S. Department of Labor.

There are four different CPIs. They are: CIP-U, CPI-W, MPLS/S. P. CPI-U and MPLS/ S. P. CPI-W. Your child support order might specify which CPI you must use. If it does, you must use the CPI indicated in your order. If it does not, you may choose which one to use. The table included in this packet on page 13 lists all four CPI figures back to 1983. Note that the MPLS/S.P. CPI is available only twice a year.

WHERE do you file all these papers?

After completing this packet, make two sets of copies of the forms. File the original papers with the court system in the county where your child support order was originally ordered. Most importantly, you must send them to the person that pays your child support. You should also keep a set for your own records.

Step-by-step: How to determine your increase and file it properly

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

1. Calculate the amount of increase you are should receive.

To do this, use the Cost of Living Adjustment Worksheet on page 5, instructions on page 4 and Table 1 on page 13. Then fill out the Cost of Living Adjustment Form (page 7).

2. Notify the person who pays you child support.

You must send the person who pays you child support a notice that says it is time to raise the amount he or she pays based on the cost of living. Use the Notice of Cost-of-Living Increase worksheet (page 10) and directions on page 9 to help you write this notice. Then fill out the Letter of Notification on page 11 and send it to the person who pays child support. You must do this at least 20 days before you expect the adjustment to be made. (For example, July 10 if the increase is to take effect August 1.) When you are ready to send these forms to the person who pays child support, you must also file copies with the court. To do this, see step 3 below.

3. File the forms with the court.

You must file the original copies of these forms and an Affidavit of Service by Mail to the court administrator's office in the county where your child support order was written. An Affidavit of Service by mail is included on page 15 of this packet. Fill it out except for your signature. It has to be notarized (witnessed) by a notary public. The court may have a notary public on hand or you may find one at a local bank. This Affidavit will inform the court that you have sent the necessary notification to the person who pays you child support. Call the County Court Administrator's office in the county where your child support order was written if you have questions about how to mail the papers to the court.

4. The increase will take effect or a hearing will be held.

The person who pays you child support has the right to request a hearing in court to ask not to pay the cost of living adjustment. The court will send you a notice about this hearing before the effective date of your cost of living increase. If the person who pays you child support has not had an increase in income over the past two years, the court could decide not to require an increase.

If the person who pays you child support 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 order.

Instructions for Cost of Living Adjustment worksheet

(Use this with page five)

1

Write in the name of the county where your child support order was issued, the name of the court where it was issued (this should appear on your order as "County" or "District" court), and 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 your child support 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 order as your guide. Write the date your child support order was issued by the court. This appears on the order.

3

You must fill in the date when your child support 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 increase.

STEP 1. Insert the amount of child support you are now entitled to, based on your child support order or divorce decree. Include any previous adjustments or increases you may have received.

STEP 2. Follow the directions under Step 2 on the worksheet. If you can't find the number you need in the CPI table on page 13, call (612) 290-3996 or the U.S. Department of Labor information (312) 353-1883 or (312) 353-1880. Use the "1967 Base" which the recording will give you or the worker will ask for. Remember, the MPLS/S.P. CPI is only available twice each year. Use the most recent month available. The reference section of your public library may also be able to help you find the correct number if it is not in the table.

STEP 3. Follow the directions under Step 3 on the worksheet.

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

STEP 5 . Follow the directions. Dividing the numbers from Step 4 by the numbers in Step 3 will give you the cost of living increase. This 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. Multiply. This will give you the dollar increase to your child support.

STEP 7. Follow the directions. Add. This will give you the total amount of the new child support award, including the increase, if there will be one.

IN THE LAST LINE insert the amount from line 7, the date when the new child support amount will take effect and how often you receive child support (weekly, monthly, etc.)

Cost of Living Adjustment Form--Worksheet

(Use with instructions on page 4)

STATE OF MINNESOTA

COUNTY		1
COURT		
JUDICIAL DISTRICT	CASE #	

In Re the Marriage of:

2

_____, Petitioner and

_____, Respondent

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

The cost-of-living adjustment in child support requested in Step 7 below has been calculated pursuant to Minn. Stat. 518.641 and the Child Support Order dated _____

3

STEP 1. Monthly child support order now. _____

STEP 2. The most recent CPI-U. Look this up on the CPI Table on page 13.

Write number here. _____

Enter the name of the month you used. _____

If you are filing this request to get an adjustment by May 1, the most recent CPI-U available will be January or February, depending upon when you file this form. The February CPI-U is not available until the end of March. If you want to file this form before the end of March, you will have to use the CPI-U for the month of January.

If your child support order says you must use one of the other three CPIs (CPI-W, MPLS/S.P. CPI-U and CPI-W) use the same table (page 13). The MPLS/S.P. CPIs 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 a MPLS/S.P., you must use the January figure.

STEP 3. The CPI-U for two years ago. Look this up on the CPI table on page 13. _____

If you have never asked for a cost-of-living adjustment before, use the same month your child support order was final. If you have received a cost of living adjustment before, use the same month you used in Step #2. If the CPI is not listed for that month, go back to the last month one is listed.

Cost of Living Adjustment Form--Worksheet, page 2

(See instructions on page 4)

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 on the line in Step 3.

Write your answer here. _____

STEP 6. Multiply the number in Step 5 by the number in Step 1.

Write the number here. _____

STEP 7. Add the number in Step 6 to the number in Step 1.

Write your answer here. _____

This is your new monthly child support amount.

Beginning _____ you must pay \$_____ for your _____ (monthly, weekly) child support. (Write in the date and the new amount.)

NOTE! You are now ready to complete the Cost of Living Adjustment Form on page 7. When you are done, *carefully* tear it from this booklet and use it to make two more copies, one for yourself and one for the person who pays you child support. File this original copy with your other child support records at the court.

Cost of Living Adjustment Form

COUNTY	
COURT	
JUDICIAL DISTRICT	CASE #

In Re the Marriage of:

_____, Petitioner and

_____, Respondent

The cost of living adjustment in child support requested in Step 7 below has been calculated pursuant to Minn. Stat. 518.641 and the Child Support Order dated _____

STEP 1. Monthly child support payment now.

STEP 2. The most recent CPI-U.

Enter the month used. _____

STEP 3. The CPI-U for two years ago.

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 on the line in Step 3.

Write your answer here. _____

STEP 6. Multiply the number in Step 5 by the number in Step 1.

Write the number here. _____

STEP 7. Add the number in Step 6 to the number in Step 1.

This is the new child support payment. Write your answer here. _____

Beginning _____ you must pay \$ _____ for your _____ (monthly, weekly) child support.

Instructions for Notification of Cost of Living Increase

(Use with page 10)

1. Insert the date you will send this notice.
2. Insert the name of the person who pays child support and that person's 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.
5. Insert the name of the person who pays child support.
6. Insert the date when your cost-of-living increase should become effective.
7. Insert the number of the paragraph in your court order where the cost-of-living adjustment is mentioned. If this is mentioned in an appendix in your court order, you can write "consistent with the terms of Appendix A." If your child support order does not mention a cost-of-living adjustment, cross out "the terms of paragraph" and write "Minnesota Statute 518.641." If you do this, skip number 8 below and go to instruction number 9.
8. Fill in whether your child support order is part of a "judgment and decree" (which is your divorce document) or from an "order", if you have a child support order issued by the court.
9. Insert the amount of child support you are currently entitled to, including how often you receive it (weekly, monthly, etc.) according to your original child support order .
10. Insert the new child support 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 name here. Include your address.

Letter of Notification--Worksheet

(Use instructions on page 9)

1) Date _____

2) Name _____

Address _____

Re: Notice of Cost-of-Living Adjustment to Child Support

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 amount you pay will become effective on 6) _____, 199____. The adjustment is more fully explained and consistent with the terms of paragraph 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 administrators office. The cost-of-living

adjustment upon the child support obligation of 9) \$ _____ 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 adjustment are enclosed. By such computations, you should be paying 10) _____ for your child support obligation starting on 11) _____.

Sincerely,

12) _____ (print name)

_____ (signature)

NOTE! You are now ready to complete the Notification of Cost of Living Adjustment Form on page 11. When you are done, carefully tear it from this booklet and use it to make two more copies. Send one copy to the person who pays you child support and keep one copy yourself. File the original with your other child support records at the court.

Letter of Notification

Date _____

Name _____

Address _____

Re: 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 amount you pay will become effective on _____, 199____. The adjustment is more fully explained and consistent with the terms of paragraph_____ of the_____.

Prior to the effective date of the adjustment, you have the right to schedule 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 courts.

The cost-of-living adjustment upon the child support 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 adjustment are enclosed. By such computations, you should be paying _____ for your children support obligation starting on _____, 19 ____.

Sincerely,

(print name)

(signature)

The CPI Table

MPLS/S.P. CPIs are not available every month. You should use the first available number ahead of the month you are needing. For example, if you are trying to find the MPLS/S.P. CPI-U for the month of March 1991, use January 1991. If you want April 1990, use January 1990.

YEAR		JAN	FEB	MAR	APR	MAY	JUNE	JUL	AUG	SEP	OCT	NOV	DEC
1984	CPI-U	305.2	306.6	307.3	309.7	309.7	310.7	311.7	313	314.5	315.3	315.3	315.5
	CPI-W	302.7	303.3	303.3	305.4	305.4	306.2	307.5	310.3	312.2	312.1	311.9	312.2
	Mpls/S.P. CPI-U	NA	319.6	NA	322	NA	324.1	NA	324.8	NA	328	NA	327.9
	Mpls/S.P. CPI-W	NA	318.6	NA	321.1	NA	328.9	NA	332.5	NA	327	NA	323.8
1985	CPI-U	316.1	317.4	318.8	321.3	321.3	322.3	322.8	323.5	324.5	325.5	326.6	327.4
	CPI-W	312.6	313.9	315.3	317.8	317.8	318.7	319.1	319.6	320.5	321.3	322.6	323.4
	Mpls/S.P. CPI-U	NA	330.9	NA	333.6	NA	336.7	NA	338.8	NA	340.6	NA	340.4
	Mpls/S.P. CPI-W	NA	326	NA	329.2	NA	332.3	NA	334.4	NA	336	NA	336
1986	CPI-U	328.4	327.5	326	325.3	326.3	327.9	328	328.6	330.2	330.5	330.8	331.1
	CPI-W	324.3	323.2	321.4	320.4	321.4	323	322.9	323.5	324.9	325	325.4	325.7
	Mpls/S.P. CPI-U	NA	339.9	NA	338.4	NA	342.1	NA	340.3	NA	340.8	NA	342.4
	Mpls/S.P. CPI-W	NA	334.9	NA	332.3	NA	336.2	NA	334.5	NA	334.6	NA	335.9
1987	CPI-U	333.1	334.4	335.9	337.7	338.7	340.1	340.8	342.7	344.4	345.3	345.8	345.7
	CPI-W	327.7	329	330.5	332.3	333.4	334.9	335.6	337.4	339.1	340	340.4	340.2
	Mpls/S.P. CPI-U	341	NA	NA	NA	NA	NA	NA	345.4	NA	NA	NA	NA
	Mpls/S.P. CPI-W	334.9	NA	NA	NA	NA	NA	NA	339.1	NA	NA	NA	NA
1988	CPI-U	346.6	347.4	349	350.8	352	353.5	354.9	356.6	358.9	360.1	360.5	360.9
	CPI-W	341	341.6	343	344.7	346.1	347.6	349.1	350.7	353	354.2	354.6	355
	Mpls/S.P. CPI-U	355.7	NA	NA	NA	NA	NA	363.7	NA	NA	NA	NA	NA
	Mpls/S.P. CPI-W	350	NA	NA	NA	NA	NA	358	NA	NA	NA	NA	NA
1989	CPI-U	362.7	364.1	366.2	368.8	370.8	371.7	372.7	373.1	374.6	376.2	377	377.6
	CPI-W	356.7	358	360	362.9	364.9	365.9	366.8	367	368.3	369.8	370.6	371.1
	Mpls/S.P. CPI-U	372.7	NA	NA	NA	NA	NA	378	NA	NA	NA	NA	NA
	Mpls/S.P. CPI-W	366.9	NA	NA	NA	NA	NA	371.5	NA	NA	NA	NA	NA
1990	CPI-U	381.5	383.3	385.5	386.2	386.9	389.1	390.7	394.1	397.5	400	400.7	400.9
	CPI-W	375	376.6	378.5	379.2	379.9	382.1	383.4	386.9	390.5	393	393.8	393.8
	Mpls/S.P. CPI-U	389	NA	NA	NA	NA	NA	394.3	NA	NA	NA	NA	NA
	Mpls/S.P. CPI-W	382.2	NA	NA	NA	NA	NA	386.4	NA	NA	NA	NA	NA
1991	CPI-U	403.1	403.8	404.3	405.1	406.3	408	408	409.2	411.1	411.5	412.7	413
	CPI-W	395.4	395.7	396.1	397.1	398.5	400	400	401	402.8	403.2	404.5	404.7
	Mpls/S.P. CPI-U	403.9	NA	NA	NA	NA	NA	406.7	NA	NA	NA	NA	NA
	Mpls/S.P. CPI-W	396.7	NA	NA	NA	NA	NA	398.8	NA	NA	NA	NA	NA
1992	CPI-U	413.8	415.2	417.2	417.9	418.6	419.9	420.8					
	CPI-W	405.2	406.2	408.1	408.9	409.9	411.4	412.1					
	Mpls/S.P. CPI-U	412.8	NA	NA	NA	NA	NA	419.8					
	Mpls/S.P. CPI-W	405.5	NA	NA	NA	NA	NA	411.3					

These figures are current as of September 1992.

For the most recent months not appearing on this table, call (612) 290-3996 or the U.S. Department of Labor, Bureau of Labor Statistics, (312) 353-1880 and ask for the 1967 base year figure.

Cost-of-living Adjustments in Maintenance or Child Support Orders

MN STAT. 518.641

Subdivision 1. Requirement. An order for 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), 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. 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 the 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.

Subd. 2. Conditions. No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

- a) the obligee or public authority serves notice of its application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;
- b) the notice to the obligor informs the obligor of the date on which adjustment in payments will become effective; and
- c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing.

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 obligations, the court 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 the hearing not been requested.

Subd. 4. Form. The department of human services shall prepare and make available to the court and obligors a form to be submitted to the department by the obligor in support of a request for hearing under this section regarding a child support order. The rulemaking provisions of chapter 14 shall not apply to the preparation of the form.

Subd. 5. Request for cost-of-living clause. A motion for enforcement or modification of an existing maintenance or child support order shall include a request for a cost-of-living clause. The court may deny the request only upon an express finding that the obligor's occupation, income, or both, does not provide for a cost-of-living adjustment or that the existing maintenance or child support order either has a cost-of-living adjustment clause or sets forth a step increase which has the effect of a cost-of-living adjustment.

Affidavit of Service

State of Minnesota)
) SS.

County of _____)
(county where filing Cost of Living Adjustment)

_____ of the City of _____ County of _____
(your name)

in the State of Minnesota, being duly sworn says that on the _____ day of _____ 199____
(month)

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 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 payor)

(sign your name here)

Subscribed and sworn to before me

this _____ day of _____, 199____.

Notary Public

Other Sources of Information

The **Child Support Enforcement Office** of your county may be able to offer some assistance in helping you get a cost of living adjustment to your child support. You can find that office listed in the government section of your phone book.

Your local public library may be able to help you find the correct **Consumer Price Index** numbers if you are having trouble with that section of these forms.

The public library, post office or bank in your community may have pay **copy machines** for you to make copies of your forms.

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. Check in your phone book for "Notary Publics."

If your child support history is complicated or if you feel you should seek a modification in your original child support award, you may want to consider hiring a private attorney experienced in family law practice. Several **attorney referral systems** operate throughout the state. Contact the Minnesota State Bar Association at 333-1188 or 1-800-292-4152.

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, income restrictions and the type of cases accepted by these agencies may make it difficult to use these services. Look in the Yellow Pages for legal aid services.