

## **New Mexico**

Uses one of two alternative worksheets, depending on the type of custody arrangement:

**“Basic Visitation”** – when child spends less than 35% of the year with one parent, Worksheet A is used (does not provide for overnight credit)

**“Shared Responsibility”** – when child spends at least 35% of the year in each home and the parents significantly share the duties, responsibilities and expenses of parenting, Worksheet B is used:

- Basic Child Support Amount is increased by 50%
- income percentages applied to arrive at each parent’s share of BCSA
- each parent retains amount determined by time child spends with that parent
- parent with larger remainder pays difference to other parent

#### **40-4-11.1. Child support; guidelines.**

A. In any action to establish or modify child support, the child support guidelines as set forth in this section shall be applied to determine the child support due and shall be a rebuttable presumption for the amount of such child support. Every decree or judgment of child support that deviates from the guideline amount shall contain a statement of the reasons for the deviation.

B. The purposes of the child support guidelines are to:

- (1) establish as state policy an adequate standard of support for children, subject to the ability of parents to pay;
- (2) make awards more equitable by ensuring more consistent treatment of persons in similar circumstances; and
- (3) improve the efficiency of the court process by promoting settlements and giving courts and the parties guidance in establishing levels of awards.

C. For purposes of the guidelines specified in this section:

(1) "income" means actual gross income of a parent if employed to full capacity or potential income if unemployed or underemployed. Income need not be imputed to the primary custodial parent actively caring for a child of the parties who is under the age of six or disabled. If income is imputed, a reasonable child care expense may be imputed. The gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after remarriage; and

(2) "gross income" includes income from any source and includes but is not limited to income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received, provided:

(a) "gross income" shall not include benefits received from means-tested public assistance programs or child support received by a parent for the support of other children;

(b) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(c) "gross income" shall not include the amount of alimony payments actually paid in compliance with a court order;

(d) "gross income" shall not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(e) "gross income" shall not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may

be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use Table A as set forth in Subsection K of this section to calculate the support for the subsequent children.

D. As used in this section:

(1) "children of the parties" means the natural or adopted child or children of the parties to the action before the court but shall not include the natural or adopted child or children of only one of the parties;

(2) "basic visitation" means a custody arrangement whereby one parent has physical custody and the other parent has visitation with the children of the parties less than thirty-five percent of the time. Such arrangements can exist where the parties share responsibilities pursuant to Section 40-4-9.1 NMSA 1978; and

(3) "shared responsibility" means a custody arrangement whereby each parent provides a suitable home for the children of the parties, when the children of the parties spend at least thirty-five percent of the year in each home and the parents significantly share the duties, responsibilities and expenses of parenting.

E. The basic child support obligation shall be calculated based on the combined income of both parents and shall be paid by them proportionately pursuant to Subsection K of this section.

F. Physical custody adjustments shall be made as follows:

(1) for basic visitation situations, the basic child support obligation shall be calculated using the basic child support schedule, Worksheet A and instructions contained in Subsection K of this section. The court may provide for a partial

abatement of child support for visitations of one month or longer; and

(2) for shared responsibility arrangements, the basic child support obligation shall be calculated using the basic child support schedule, Worksheet B and instructions contained in Subsection K of this section.

G. In shared responsibility situations, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five.

H. The cost of providing medical and dental insurance for the children of the parties and the net reasonable child-care costs incurred on behalf of these children due to employment or job search of either parent shall be paid by each parent in proportion to that parent's income, in addition to the basic obligation.

I. The child support may also include the payment of the following expenses not covered by the basic child support obligation:

(1) any extraordinary medical, dental and counseling expenses incurred on behalf of the children of the parties. Such extraordinary expenses are uninsured expenses in excess of one hundred dollars (\$100) per child per year;

(2) any extraordinary educational expenses for children of the parties; and

(3) transportation and communication expenses necessary for long distance visitation or time sharing.

J. Whenever application of the child support guidelines set forth in this section requires a person to pay to another person more than forty percent of the paying person's gross income for a

single child support obligation for current support, there shall be a presumption of a substantial hardship, justifying a deviation from the guidelines.

WORKSHEET A - BASIC VISITATION

\_\_\_\_\_ JUDICIAL DISTRICT COURT

COUNTY OF \_\_\_\_\_

STATE OF NEW MEXICO

NO. \_\_\_\_\_

,  
Petitioner,

vs.

,  
Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

	Custodial Parent		Other Parent		Combined
1. Gross Monthly Income	\$_____	+	\$_____	=	\$_____
2. Percentage of Combined Income (Each parent's income divided by combined income)	_____%	+	_____%	=	100%
3. Number of Children _____					
4. Basic Support from Schedule (Use combined income from Line 1)				=	_____
5. Children's Health and Dental Insurance Premium	_____	+	_____	=	_____
6. Work-Related Child Care	_____	+	_____	=	_____
7. Additional Expenses	_____	+	_____	=	_____
8. Total Support (Add					

Lines 5, 6 and  
7 for each parent  
and Lines 4, 5, 6 and 7 for combined  
column)

\_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

9. Each Parent's Obligation  
(Combined Column Line  
8 x each parent's  
Line 2)

\_\_\_\_\_

10. Enter amount for  
each parent from  
Line 8

- \_\_\_\_\_

11. Each Parent's Net  
Obligation (Subtract  
Line 10 from Line 9  
for each parent)

\_\_\_\_\_

Other Parent pays  
Custodial Parent  
this Amount

\_\_\_\_\_ PAYS \_\_\_\_\_ EACH MONTH  
\$ \_\_\_\_\_

Petitioner's Signature

Respondent's Signature

Date: \_\_\_\_\_

BASIC VISITATION  
INSTRUCTIONS FOR WORKSHEET A

Line 1. Gross monthly income:

Includes all income, except TANF, food stamps and supplemental security income. If a parent pays child support by court order to other children, subtract from gross income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return. Add both parents' gross incomes and put total under the combined column.

Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

Lines 3 and 4. Basic Support:

Fill in number of children on worksheet (Line 3). Round combined income to nearest fifty dollars (\$50.00). Look at the basic child support schedule. In the far left-hand column of the basic child support schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

Line 5. Children's Health and Dental Insurance Premium:

Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 5. Add costs paid by each parent and enter under the combined column on Line 5.

Line 6. Work-Related Child Care:

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by twelve. Enter each parent's figure in that parent's column on Line 6. Add the cost for both parents and enter in the combined column on Line 6.

Line 7. Additional Expenses:

Enter the amounts paid by each parent for additional expenses provided by Subsection I of this section on Line 7. Add the cost for both parents and enter in the combined column on Line 7.

Line 8. Total Support:

Total the basic support amount from Line 4 in the combined column with the combined column on Lines 5, 6 and 7 and enter the totals in combined column on Line 8.

Line 9. Each Parent's Obligation:

Multiply the total child support amount on Line 8 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 9.

Line 10. Total Support:

Enter the total amount shown for each parent on Line 8 beside the "minus" marks on Line 10.

Line 11. Each Parent's Net Obligation:

For each parent, subtract the amount on Line 10 from the amount on Line 9. Enter the difference for each parent in that parent's column on Line 11. The amount in the box "other parent" is what that parent pays to the custodial parent each month. Do not subtract the amount on the custodial parent's Line 11 from the amount in the other parent's box. The custodial parent is presumed to use the amount in that parent's column on Line 11 for the children.

WORKSHEET B - SHARED RESPONSIBILITY

\_\_\_\_\_ JUDICIAL DISTRICT COURT  
COUNTY OF \_\_\_\_\_

STATE OF NEW  
MEXICO

NO.

\_\_\_\_\_

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

vs.

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

MONTHLY CHILD SUPPORT  
OBLIGATION

Part 1 - Basic Support:	Mother		Father		Combined
1. Gross Monthly Income	\$_____	+	\$_____	=	\$_____
2. Percentage of Combined Income (Each parent's income divided by combined income)	_____ %	+	_____ %	=	100%
3. Number of Children _____					
4. Basic Support from Schedule (Use combined income from Line 1)				=	_____
5. Shared Responsibility Basic Obligation (Line 4 x 1.5)				=	_____
6. Each Parent's Share (Line 5 x each parent's Line 2)	_____		_____		
7. Number of 24-Hour Days with Each Parent (must total 365)	_____	+	_____	=	<u>365</u>
8. Percentage with Each Parent (Line 7 divided by 365)	_____ %	+	_____ %	=	100%
9. Amount Retained (Line 6 x Line 8 for Each Parent)	_____		_____		
10. Each Parent's Basic Obligation (subtract Line 9 from Line 6)	_____		_____		
11. Amount Transferred (subtract smaller amount					

on Line 10 from larger amount on Line 10). Parent with larger amount on Line 10 pays other parent the difference.

Part 2 - Additional Payments:

12. Children's Health and Dental Insurance Premium	_____	+	_____	=	_____
13. Work-Related Child Care	_____	+	_____	=	_____
14. Additional Expenses	_____	+	_____	=	_____
15. Total Additional Payments (Add Lines 12, 13 and 14 for each parent and for combined column)	_____	+	_____	=	_____
16. Each Parent's Obligation (Combined Column Line 15 x each parent's Line 2)	_____		_____		
17. Amount Transferred (Subtract each parent's Line 16 from that parent's Line 15). Parent with "minus" figure pays that amount to other parent.	_____		_____		

Part 3 - Net Amount Transferred:

18. Combine Lines 11 and 17 by addition if same parent pays on both lines, otherwise by subtraction.					_____
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\_\_\_\_\_ PAYS \_\_\_\_\_ EACH MONTH \$ \_\_\_\_\_

Petitioner's Signature

Respondent's Signature

Date: \_\_\_\_\_

SHARED RESPONSIBILITY  
INSTRUCTIONS FOR WORKSHEET B

Part 1 - Basic Support:

Line 1. Gross Monthly Income:

Includes all income, except TANF, food stamps and supplemental security income. See text for allowed deductions from income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return. Add both parents' gross incomes and put total under the combined column.

Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

Lines 3 and 4. Basic Support:

Fill in the number of children on the worksheet (Line 3). Round combined income to nearest fifty dollars (\$50.00). Look at the basic child support schedule. In the far left-hand column of that schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

Line 5. Shared Responsibility Basic Obligation:

Multiply the basic obligation on Line 4 by 1.5.

Line 6. Each Parent's Share:

Multiply the support amount on Line 5 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 6.

Line 7. Each Parent's Time of Care for Children:

Enter the number of twenty-four-hour days of responsibility that each parent has each child in a year according to the parenting plan.

Line 8. Percentage of Twenty-Four-Hour Days With Each Parent:

Divide each parent's number of twenty-four-hour days (Line 7) by three hundred sixty-five to obtain a percentage.

**Line 9. Amount Retained:**

Under shared responsibility arrangements, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five. Multiply each parent's share of basic support (Line 6) by the percentage in that parent's Line 8 and enter the result on that parent's Line 9. This is the amount that each parent retains to pay the children's expenses during that parent's periods of responsibility.

**Line 10. Each Parent's Basic Obligation:**

Subtract the amount retained by each parent for direct expenses (Line 9) from that parent's share (Line 6) and enter the difference on that parent's Line 10.

**Line 11. Amount Transferred for Basic Support:**

In shared responsibility situations, both parents are entitled not only to retain money for direct expenses but also to receive contributions from the other parent toward those expenses. Therefore, subtract the smaller amount on Line 10 from the larger amount on Line 10 to arrive at a net amount transferred for basic support.

**Part 2 - Additional Payments:**

**Line 12. Children's Health and Dental Insurance Premium:**

Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 12. Add costs paid by each parent and enter under the combined column on Line 12.

**Line 13. Work-Related Child Care:**

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by twelve. Enter each parent's figure in that parent's column on Line 13. Add the cost for both parents and enter in combined column on Line 13.

**Line 14. Additional Expenses:**

Enter the cost paid by each parent for additional expenses provided by Subsection I of this section on Line 14.

**Line 15. Total Additional Payments:**

For each parent, total the amount paid by that parent for insurance, child care and additional expenses (Lines 12, 13 and 14). Enter the total in that parent's column on Line 15 and the total of both parents' expenses under the combined column on Line 15.

**Line 16. Each Parent's Obligation:**

Multiply the total additional payments (combined column on Line 15) by each parent's percentage share of income on Line 2, and enter each parent's dollar share of the additional payments on that parent's Line 16.

**Line 17. Amount Transferred:**

Subtract each parent's obligation for additional expenses (that parent's Line 16) from the total additional payments made by that parent (that parent's Line 15). The parent with a "minus" figure pays the other parent the amount on Line 17.

Part 3 - Net Amount Transferred:

Line 18. Combine Lines 11 and 17:

Combine the amount owed by one parent to the other for basic support (Line 11) and the amount owed by one parent to the other for additional payments (Line 17). If the same parent owes for both obligations, add Lines 11 and 17, and enter the total on Line 18. If one parent owes for basic support and the other owes for additional payments, subtract the smaller amount from the larger and enter on Line 18. Fill in the blanks by stating which parent pays and which parent receives the net amount transferred.

**40-4-11.2. Grounds for deviation from child support guidelines.**

Any deviation from the child support guideline amounts set forth in Section 40-4-11.1 NMSA 1978 shall be supported by a written finding in the decree, judgment or order of child support that application of the guidelines would be unjust or inappropriate. Circumstances creating a substantial hardship in the obligor, obligee or subject children may justify a deviation upward or downward from the amount that would otherwise be payable under the guidelines.

**40-4-11.4. Modification of child support orders; exchange of financial information.**

A. A court may modify a child support obligation upon a showing of material and substantial changes in circumstances subsequent to the adjudication of the pre-existing order. There shall be a presumption of material and substantial changes in circumstances if application of the child support guidelines in Section 40-4-11.1 NMSA 1978 would result in a deviation upward or downward of more than twenty percent of the existing child support obligation and the petition for modification is filed more than one year after the filing of the pre-existing order.

B. All child support orders shall contain a provision for the annual exchange of financial information by the obligor and obligee upon a written request by either party. The financial information to be furnished shall include:

(1) federal and state tax returns, including all schedules, for the year preceding the request;

(2) W-2 statements for the year preceding the request;

(3) Internal Revenue Service Form 1099s for the year preceding the request;

(4) work-related daycare statements for the year preceding the request;

(5) dependent medical insurance premiums for the year preceding the request; and

(6) wage and payroll statements for four months preceding the request.

For the purposes of this subsection, the wages of a subsequent spouse may be omitted from the financial information provided by either the obligor or the obligee.