

**Final Rule – Flexibility, Efficiency, and Modernization
Strike-Out Version (December 20, 2016)**

Section	Current Version (2013)	NPRM (FR 11/17/14)	Final Rule (FR 12/20/16)
		<p><i>7. The authority citation for part 302 continues to read as follows:</i></p> <p>PART 302—STATE PLAN REQUIREMENTS AUTHORITY: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).</p>	<p><i>7. The authority citation for part 302 continues to read as follows:</i></p> <p>PART 302—STATE PLAN REQUIREMENTS Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).</p>
302.56	<p>§ 302.56 Guidelines for setting child support awards.</p> <p>(a) Effective October 13, 1989, as a condition of approval of its State plan, the State shall establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State.</p> <p>(b) The State shall have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts.</p> <p>(c) The guidelines established under paragraph (a) of this section must at a minimum:</p> <p>(1) Take into consideration all earnings and income of the noncustodial parent;</p>	<p><i>15. Revise § 302.56 to read as follows:</i></p> <p>§ 302.56 Guidelines for setting child support awards.</p> <p>(a) Within one year after completion of the State’s next quadrennial review of its guidelines, pursuant to § 302.56(e), as a condition of approval of its State plan, the State must establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State that meet the requirements in this section.</p> <p>(b) The State must have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts.</p> <p>(c) The guidelines established under paragraph (a) of this section must at a minimum:</p> <p>(1) Take into consideration actual earnings and income of the noncustodial parent;</p>	<p><i>15. Revise § 302.56 to read as follows:</i></p> <p>§ 302.56 Guidelines for setting child support awards.</p> <p>(a) Effective October 13, 1989, <u>Within one year after completion of the State’s next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e),</u> as a condition of approval of its State plan, the State shall <u>must</u> establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support award amounts within the State <u>that meet the requirements in this section.</u></p> <p>(b) The State shall <u>must</u> have procedures for making the guidelines available to all persons in the State whose duty it is to set child support award amounts.</p> <p>(c) The <u>child support</u> guidelines established under paragraph (a) of this section must at a minimum:</p> <p>(1) <u>Provide that the child support order is based on the noncustodial parent’s earnings,</u></p>

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	<p>(2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation; and</p> <p>(3) Address how the parents will provide for the child(ren)'s health care needs through health insurance coverage and/or through cash medical support in accordance with § 303.31 of this chapter.</p>	<p>(2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation;</p> <p>(3) Address how the parents will provide for the child(ren)'s health care needs through health insurance coverage and/or through cash medical support in accordance with §303.31 of this chapter;</p> <p>(4) Take into consideration the noncustodial parent's subsistence needs and provide that</p>	<p><u>income, and other evidence of ability to pay that:</u></p> <p><u>(i) Takes into consideration all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent);</u></p> <p><u>(ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State; and</u></p> <p><u>(iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.</u></p> <p>(2) Be based on specific descriptive and numeric criteria and result in a computation of the support obligation;</p>

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	<p>(d) The State must include a copy of the guidelines in its State plan.</p> <p>(e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.</p> <p>(f) Effective October 13, 1989, the State must provide that there shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded.</p> <p>(g) A written finding or specific finding on the record of a judicial or administrative</p>	<p>any amount ordered for support be based upon available data related to the parent's actual earnings, income, assets, or other evidence of ability to pay, such as testimony that income or assets are not consistent with a noncustodial parent's current standard of living; and</p> <p>(5) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders.</p> <p>(d) The State must include a copy of the guidelines in its State plan.</p> <p>(e) The State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award amounts.</p> <p>(f) The State must provide that there will be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded.</p>	<p>(3) Address how the parents will provide for the child(ren)'s <u>child's</u> health care needs through <u>private or public health insurance care coverage</u> and/or through cash medical support in accordance with § 303.31 of this chapter.</p> <p><u>(3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders; and</u></p> <p>(2)(4) Be based on specific descriptive and numeric criteria and result in a computation of the child support obligation.</p> <p>(d) The State must include a copy of the guidelines in its State plan.</p> <p>(e) The State must review, and revise, if appropriate, the <u>child support</u> guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support award <u>order</u> amounts. <u>The State shall publish on the internet and make accessible to the public all reports of the guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.</u></p>

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	<p>proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.</p> <p>(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited.</p>	<p>(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.</p> <p>(h) Child support awards established under paragraph (a) of this section may recognize parenting time provisions pursuant to State child support guidelines or when both parents have agreed to the parenting time provisions.</p> <p>(i) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must consider economic data on the cost of raising children and analyze case data, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the guidelines are limited. Deviation from the presumptive child support amount may be based on</p>	<p>(f) Effective October 13, 1989, the The State must provide that there shall <u>will</u> be a rebuttable presumption, in any judicial or administrative proceeding for the award of establishment and modification of a child support order, that the amount of the award order which would result from the application of the <u>child support</u> guidelines established under paragraph (a) of this section is the correct amount of child support to be awarded <u>ordered</u>.</p> <p>(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case shall <u>will</u> be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the <u>child support</u> guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.</p> <p>(h) As part of the review of a State's guidelines required under paragraph (e) of this section, a State must:</p>

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		factors established by the State.	<p><u>(1) Consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders; and</u></p> <p><u>(2) Analyze case data, gathered through sampling or other methods, on the application of and deviations from, the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g); and</u></p>

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			<u>(3) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV-D of the Act.</u>
		<p>20. The authority citation for part 303 is revised to read as follows:</p> <p>PART 303--STANDARDS FOR PROGRAM OPERATIONS</p> <p>AUTHORITY: 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k), and 25 U.S.C. 1603(12) and 1621e.</p>	<p>19. The authority citation for part 303 is revised to read as follows:</p> <p>PART 303--STANDARDS FOR PROGRAM OPERATIONS</p> <p>Authority: 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k), and 25 U.S.C. 1603(12) and 1621e.</p>
303.31	<p>§ 303.31 Securing and enforcing medical support obligations.</p> <p>(a) For purposes of this section:</p> <p>(1) Cash medical support means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance</p> <p>(2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage which is available to either parent, under which medical services could be provided to the dependent</p>	<p>28. Amend § 303.31 by revising paragraphs (a)(2), (a)(3), (b)(1), (b)(2), (b)(3) introductory text, (b)(3)(i), and (b)(4) to read as follows:</p> <p>§ 303.31 Securing and enforcing medical support obligations.</p> <p>(a) * * *</p> <p>(2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of private and public coverage which is available to either parent, under which medical services could be provided to the dependent child(ren).</p>	<p>28. Amend § 303.31 by revising paragraphs (a)(2) and (3), (b)(1) and (2), (b)(3) introductory text, (b)(3)(i), and (b)(4) to read as follows:</p> <p>§ 303.31 Securing and enforcing medical support obligations.</p> <p>(a) * * *</p> <p>(2) Health insurance <u>care coverage</u> includes fee for service, health maintenance organization, preferred provider organization, and other types of <u>private health insurance and public health care coverage</u> which is available to either parent, under which medical services could be</p>

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	<p>child(ren).</p> <p>(3) Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter. In applying the five percent or alternative State standard for the cost of private health insurance, the cost is the cost of adding the child(ren) to the existing coverage or the difference between self-only and family coverage.</p> <p>(b) * * *</p> <p>(1) Petition the court or administrative authority to include private health insurance that is accessible to the child(ren), as defined by the State, and is available to the parent responsible for providing medical support at reasonable cost, as defined under paragraph (a)(3) of this section, in new or modified court or administrative orders for support;</p>	<p>(3) Cash medical support or the cost of health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations, or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter.</p> <p>(b) * * *</p> <p>(1) Petition the court or administrative authority to:</p> <p>(i) Include health insurance that is accessible to the child(ren), as defined by the State, and is available to the parent responsible for providing medical support at reasonable cost, as defined under paragraph (a)(3) of this section, in new or modified court or administrative orders for support; and</p> <p>(ii) Determine how to allocate the cost of coverage between the parents.</p> <p>(2) If health insurance described in</p>	<p>provided to the dependent child(ren).</p> <p>(3) Cash medical support or the cost of private health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter. In applying the five percent or alternative State standard for the cost of private health insurance, the cost is the cost of adding the child(ren) to the existing coverage or the difference between self-only and family coverage.</p> <p>(b) * * *</p> <p>(1) Petition the court or administrative authority to:</p> <p>(i) Include <u>private health insurance care coverage</u> that is accessible to the child(ren), as defined by the State, and is available to the parent responsible for providing medical support <u>and can be obtained for the child</u> at reasonable cost, as defined under paragraph (a)(3) of this section, in new or modified court or administrative orders for support; <u>and</u></p> <p>(ii) <u>Allocate the cost of coverage between</u></p>

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	<p>(2) If private health insurance described in paragraph (b)(1) of this section is not available at the time the order is entered or modified, petition to include cash medical support in new or modified orders until such time as health insurance, that is accessible and reasonable in cost as defined under paragraph (a)(3) of this section, becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health insurance coverage.</p> <p>(3) Establish written criteria to identify orders that do not address the health care needs of children based on—</p> <p>(i) Evidence that private health insurance may be available to either parent at reasonable cost, as defined under paragraph (a)(3) of this section; and * * * * *</p> <p>(4) Petition the court or administrative authority to modify support orders, in accordance with State child support guidelines, for cases identified in paragraph (b)(3) of this section to include private health insurance and/or cash medical support in accordance with paragraphs (b)(1) and (b)(2) of this section. * * * * *</p>	<p>paragraph (b)(1) of this section is not available at the time the order is entered or modified, petition to include cash medical support in new or modified orders until such time as health insurance, that is accessible and reasonable in cost as defined under paragraph (a)(3) of this section, becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health insurance coverage.</p> <p>(3) Establish criteria, which are reflected in a record, to identify orders that do not address the health care needs of children based on—</p> <p>(i) Evidence that health insurance may be available to either parent at reasonable cost, as defined under paragraph (a)(3) of this section; and * * * * *</p> <p>(4) Petition the court or administrative authority to modify support orders, in accordance with State child support guidelines, for cases identified in paragraph (b)(3) of this section to include health insurance and/or cash medical support in accordance with paragraphs (b)(1) and (2) of this section. * * * * *</p>	<p><u>the parents.</u></p> <p>(2) If private health insurance <u>care coverage</u> described in paragraph (b)(1) of this section is not available at the time the order is entered or modified, petition to include cash medical support in new or modified orders until such time as health insurance <u>care coverage</u>, that is accessible and reasonable in cost as defined under paragraph (a)(3) of this section, becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health insurance <u>care</u> coverage.</p> <p>(3) Establish written <u>criteria, which are reflected in a record</u>, to identify orders that do not address the health care needs of children based on—</p> <p>(i) Evidence that private health insurance <u>care coverage</u> may be available to either parent at reasonable cost, as defined under paragraph (a)(3) of this section; and * * * * *</p> <p>(4) Petition the court or administrative authority to modify support orders, in accordance with State child support guidelines, for cases identified in paragraph (b)(3) of this section to include private health insurance <u>care coverage</u> and/or cash medical support in accordance with paragraphs (b)(1) and (b)(2) of this section. * * * * *</p>

