

To: Alabama Advisory Committee on Child Support Guidelines and Enforcement
From: Jane Venohr, CPR
Data: Sept. 27, 2021
RE: Treatment of child care expenses in other states

Alabama provides that that employment related child care expenses in two places in the guideline: as an add-on to the basic child support obligation; and, as deviation criteria. Both places reference the child-care cost schedule developed and maintained by the Alabama Department of Human Resources (DHR). The DHR child-care cost schedule is used as a cap to the allowable child-care expenses that can be considered in the child support calculation.

Table 1: Alabama Guidelines Provisions Addressing Child Care Expenses

<p>(B) Definitions</p> <p>(8) Child-care costs. Child-care costs, incurred on behalf of the children because of employment or job search of either parent, shall be added to the “basic child support obligation.” Child-care costs shall not exceed the amount required to provide care from a licensed source for the children, based on a schedule of guidelines developed by the Alabama Department of Human Resources. Before the Alabama Department of Human Resources implements any revision the schedule of child-care guidelines, it shall provide the administrative director of courts (“the ADC”) a copy of the revised schedule. The ADC shall as soon as reasonably practicable thereafter, disseminate the revised schedule to all circuit and district court judges and clerks and the Family Law Section of the Alabama State Bar. The clerk shall maintain the current schedule in his or her office, shall make it available for review, and shall provide copies of it on request, at the customary cost for copies of documents.</p>
<p>Reasons for Deviation</p> <p>(1) Reasons for deviating from the guidelines. Reasons for deviating from the guidelines may include, but are not limited to, the following:</p> <p>(f) The actual child-care costs incurred on behalf on the children because of the employment or job search of either parent exceeds the cost allowed under subsection (B)(8) of this rule by twenty percent (20%) or more:</p> <p>(g) A parent incurs child-care costs associated with the parent’s training or education necessary to obtain a job or to enhance that parent’s earning potential, not to exceed a reasonable time as determined by the court. To justify deviating from the guidelines on this basis, the parent must prove by a preponderance of the evidence that the job training or education will benefit the child or children being supported, and child-care costs associated with such training or education shall not exceed the amount required to provide care from a licensed source for the child or children, based on a schedule of guidelines developed by the Alabama Department of Human Resources.</p>

ADC publishes the DHR child support schedule on its website.

[ALDayCareRates.pdf \(alacourt.gov\)](#)

Perceived strengths of current approach

- Provides guidance
- Provides a credible source that is updated typically every two years

Perceived weaknesses of current approach

- DHR publishes multiple rates: confusing what to use
 - Could easily be solved by saying “center-care” at highest quality ranking or the actual amount if lower (e.g., see Florida and Maryland).

- Some pay more
 - Can be addressed by existing deviation criteria

Background

All states with block grants for childcare assistance programs must conduct market surveys of childcare rates in their respective state. Some courts use these studies to gauge whether childcare expenses for a particular case are more expensive than the market rate. It appears that DHR last updated its rates in 2019. The rates represent the 75 percentile of market rates, where 75th is deemed a reasonable rate of reimbursement for childcare providers when childcare is being subsidized.

DHR provides rates for

- nine regions: Huntsville, Mobile, Birmingham, Montgomery, Opelika, Tuscaloosa, Ft. Payne, Talladega, and Dothan;
- three age groups (infant/toddler, preschool, and school age);
- four settings: licensed center, licensed group family day care (seven to 12 children), licensed family day care (not more than six children), and informal care providers; and
- STARS rating, which is used to rate the quality of childcare including its early learning programs.

The rates for license providers vary from \$75 per week for a Ft. Payne family day care for pre-school children with a Star 1 rating to \$166 per week in Birmingham for an infant at licensed center with a five-star rating. Unlicensed home care providers will be reimbursed at a rate not to exceed \$40 per week.

Other States

The table on the next page provides excerpts of child support guidelines from neighboring states and selected states that provide a cap. Many other states provide a cap, but don't specifically mention their market survey. Many states, however, relate their cap to licensed care and high quality care. This simplifies the cap: it does not require knowledge of the type of care or the quality rating.

State	Reason Include	Provision
AR	southern state, limits cost to quality care from licensed provider	<p>3. Childcare Costs:</p> <p>The childcare costs that a parent incurs due to employment or the search for employment is the third add-on to the Worksheet, and they may be considered in the total child-support obligation. Childcare costs must be reasonable, not to exceed the level required to provide quality care for child(ren) from a licensed provider.</p>
FL	Neighboring state, limits to quality care from licensed provider	<p>Child care costs incurred due to employment, job search, or education calculated to result in employment or to enhance income of current employment of either parent shall be added to the basic obligation. After the child care costs are added, any moneys prepaid by a parent for child care costs for the child or children of this action shall be deducted from that parent's child support obligation for that child or those children. Child care costs may not exceed the level required to provide quality care from a licensed source.</p>
GA	Neighboring state with vague limiting factor, but also addresses child-care services provided without charge	<p>(24) "Work related child care costs" means expenses for the care of the child for whom support is being determined which are due to employment of either parent. In an appropriate case, the court may consider the child care costs associated with a parent's job search or the training or education of a parent necessary to obtain a job or enhance earning potential, not to exceed a reasonable time as determined by the court, if the parent proves by a preponderance of the evidence that the job search, job training, or education will benefit the child being supported. The term shall be projected for the next consecutive 12 months and averaged to obtain a monthly amount. For further reference see paragraph (1) of subsection (h) of this Code section.</p> <p>(1) Work-related child care costs</p> <p>(A) Work related child care costs necessary for the parent's employment, education, or vocational training that are determined by the court to be appropriate, and that are appropriate to the parents' financial abilities and to the lifestyle of the child if the parents and child were living together, shall be averaged for a monthly amount and entered on the child support worksheet in the column of the parent initially paying the expense. Work related child care costs of a nonparent custodian shall be considered when determining the amount of this expense</p> <p>(B) If a child care subsidy is being provided pursuant to a means-tested public assistance program, only the amount of the child care expense actually paid by either parent or a nonparent custodian shall be included in the calculation. (C) If either parent is the provider of child care services to the child for whom support is being determined, the value of those services shall not be an adjustment to the basic child support obligation when calculating the support award. (D) If child care is provided without charge to the parent, the value of these services shall not be an adjustment to the basic child support obligation. If child care is or will be provided by a person who is paid for his or her services, proof of actual cost or payment shall be shown to the court before the court includes such payment in its consideration. (E) The amount of work related child care costs shall be determined and added as an adjustment to the basic child support obligation as "additional expenses" whether paid directly by the parent or through a payroll deduction</p>
LA	Southern state with vague limitation	<p>§315.3. Child care costs; addition to basic obligation</p> <p>A. Net child care costs shall be added to the basic child support obligation. The net child care costs are determined by applying the Federal Credit for Child and Dependent Care Expenses provided in Internal Revenue Form 2441 to the total or actual child care costs.</p> <p>B. Reasonable child care expenses incurred by either parent while receiving job training or education necessary to obtain employment or enhance earning potential may be added to the basic child support obligation unless such expenses unreasonably burden the parent paying child support</p>
MD	Specifically mentions cost of licensed care but allow to use less	<p>Maryland Family Law §12-204(g)(1). Subject to paragraphs (2) and (3) of this subsection, actual child care expenses incurred on behalf of a child due to employment or job search of either parent shall be added to the basic obligation and shall be divided between the parents in proportion to their adjusted actual incomes.</p> <p>(2) Child care expenses shall be: determined by actual family experience, unless the court determines that the actual family experience is not in the best interest of the child; or If there is no actual family experience or if the court determines that actual family experience is not in the best interest of the child: the level required to provide quality care from a licensed source; or if the custodial parent chooses quality child care with an actual cost of an amount less than the level required to provide quality care from a licensed sources, the actual cost of the child care expense.</p> <p>(3) Additional child care expenses may be considered if a child has special needs.</p>
SC	Southern state: specifically mentions high quality and licensed provider	<p>South Carolina 13. Child Care Costs. The cost of day care the parent incurs due to employment or the search for employment, net of the federal income tax credit for such day care, is to be added to the basic obligation. This is to encourage parents to work and generate income for themselves as well as their children. However, day care costs must be reasonable, not to exceed the level required to provide high quality care for children from a licensed provider. As custodial parents may be eligible for qualified tax credits, the actual day care expense should be adjusted to recognize this credit. This adjustment may take</p>

		<p>place in two ways. In cases where the custodial parent's gross income exceeds the thresholds listed below, the actual or allowed day care cost is multiplied by .75 to arrive at the adjusted amount to enter on the appropriate line 6.c.</p> <div><div>-----</div><table><tr><td></td><td>One Child</td><td>Two Children</td><td>Three Children</td><td>Four Children</td><td>Five Children</td></tr><tr><td>Six Children</td><td></td><td></td><td></td><td></td><td></td></tr></table><div>-----</div><table><tr><td>Custodial Parent Monthly Income \$3,100</td><td>\$1,950</td><td>\$2,300</td><td>\$2,450</td><td>\$2,600</td><td>\$2,850</td></tr></table><div>-----</div><p>These thresholds are based upon the standard deduction for head-of-household, dependent exemptions, and the intricate application of the child care tax credit. While these will hold true in most cases, judges can always review child care costs with the actual credit method, below. The other method would be to take the actual costs and subtract the actual value of the federal tax credit such as determined by the last filed IRS Form 2441. This adjusted amount would then be entered on line 6.c.</p></div>		One Child	Two Children	Three Children	Four Children	Five Children	Six Children						Custodial Parent Monthly Income \$3,100	\$1,950	\$2,300	\$2,450	\$2,600	\$2,850
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TN	TN language mirrors GA because GA adapted TN's language.	<p>(32) "Work-Related Childcare Costs."</p> <p>(a) For the purposes of this chapter, work-related childcare costs mean expenses for the care of the child for whom support is being determined which are due to employment of either parent or non-parent caretaker.</p> <p>(b) In an appropriate case, the tribunal may consider the childcare costs associated with a parent's job search or the training or education of either parent necessary to obtain a job or enhance earning potential, not to exceed a reasonable time as determined by the tribunal, if the parent proves by a preponderance of the evidence that the job search, job training, or education will benefit the children being supported.</p> <p>(c) Childcare costs shall be projected for the next consecutive twelve (12) months and averaged to obtain a monthly amount</p> <p>Work-Related Childcare Expenses. 1. Childcare expenses necessary for either parent's employment, education, or vocational training that are determined by the tribunal to be appropriate, and that are appropriate to the parents' financial abilities and to the lifestyle of the child if the parents and child were living together, shall be averaged for a monthly amount and entered on the Worksheet in the column of the parent initially paying the expense. 2. If a childcare subsidy is being provided pursuant to a means-tested public assistance program, only the amount of the childcare expense actually paid by either parent or the non-parent caretaker shall be included in the calculation. 3. If either parent or the non-parent caretaker is the provider of childcare services to the child for whom support is being determined, the value of those services shall not be added to the basic child support obligation when calculating the support award.</p>																		