

Calculating Retroactive Support Desk Aid

Statutes:

26-13.5-105(5), C.R.S., Recovery of Child Support Retroactive Support in APA cases (Stipulated order)

26-13.5-109(d), C.R.S., Recovery of Child Support Retroactive Support in APA cases (Default order)

19-6-105(1), C.R.S., Support Proceedings Act

19-4-116(4), C.R.S., Uniform Parentage Act

14-10-115, C.R.S., Child Support Guidelines

Volume 6:

Section 6.700.37

Section 6.700.38

Retroactive Child Support:

Retroactive Child Support (sometimes called “Retro”) is an obligation to pay child support for a period of time prior to the date that a child support order is established.

County Policy (Option) on Establishing Retroactive Child Support:

County child support enforcement units (CSEU) have the option to establish or not establish retroactive child support. If the county CSEU has elected to establish retroactive support, it also has the option to decide the period of time that the obligation will be established. For example, a county CSEU may elect to establish retroactive support from the date of application, two years prior to the date of application, from birth or any other time period. If the county policy is to not establish retroactive support or only establish retroactive support for a limited time period the order shall state that the noncustodial parent is advised that the custodial party (CP) may pursue a judgment for retroactive support on his/her own and within the same case.

Establishment of a Retroactive Support Obligation:

A CSEU may only establish a retroactive support judgment in a IV-D case if the custodial party has completed the Affidavit Concerning Retroactive Support (CSE 835). If no affidavit is completed and provided by the CP, the order will not contain a retroactive support judgment.

Compromise (forgiveness or reduction) of Retro:

Only the custodial party has the authority to compromise retroactive support. A County CSEU may not compromise retroactive support without written consent from the custodial party. There is no DocGen Waiver of Retroactive Support form.

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Calculation of Retroactive Child Support:

Retroactive support is equal to the MSO times the number of months for which retroactive support is claimed.

Factors that May be considered in Calculating Retroactive Support:

Volume 6.700.38D lists several factors that a county CSEU may consider in calculating retroactive support, including:

1. An increase in the parent's income since the date of child's birth that may result in the current monthly child support order being higher than it would have been at the time of the child's birth.
2. The length of time that a custodial party waited before requesting the services for the establishment of retroactive support, including whether the noncustodial parent knew or should have known about the existence of the children.
3. Special circumstances that may have inhibited the custodial party from requesting assistance from Child Support Enforcement at an earlier date.
4. Direct cash or in-kind support provided by the noncustodial parent to custodial party for the children for periods prior to the entry of the support order.
5. Any circumstances beyond the control of the noncustodial parent which might have lengthened the time periods for which child support retroactive support or retroactive support are being established including, but not limited to, non-cooperation by the custodial party.

Calculation of Retroactive Support in Add A Child cases:

A retroactive support judgment may be established in an Add A Child case on behalf of the subsequent child(ren). There is no set formula by statute or rule on calculating the retroactive support in such cases. The best practice is to calculate the MSO for all the children (children on the existing case and the subsequent child(ren)) and then from that amount, subtract the current MSO. Then multiply the result of that figure by the number of months for which retroactive support is claimed for the subsequent child(ren). That amount will be the retroactive support judgment amount on the Add A Child order.