



ADMINISTRATIVE RULES OF MONTANA



37.62.106 IMPUTED INCOME FOR CHILD SUPPORT

- (1) "Imputed income" means income not actually earned by a parent, but which is attributed to the parent based on the provisions of this rule. It is presumed that all parents are capable of working at least 40 hours per week at minimum wage, absent evidence to the contrary.
- (2) It is appropriate to impute income to a parent, subject to the provisions of (6) of this rule, when the parent:
 - (a) is unemployed;
 - (b) is underemployed;
 - (c) fails to produce sufficient proof of income;
 - (d) has an unknown employment status; or
 - (e) is a student.
- (3) In all cases where imputed income is appropriate, the amount is based on the following:
 - (a) the parent's residence and recent work and earnings history;
 - (b) the parent's occupational, educational, and professional qualifications;
 - (c) existing job opportunities and associated earning levels in the community or the local trade area;
 - (d) the parent's age, literacy, health, criminal record, record of seeking work, and other employment barriers;
 - (e) the availability of employers willing to hire the parent; and
 - (f) other relevant background factors.
- (4) Imputed income may be in addition to actual income and may not necessarily reflect the same rate of pay as the actual income.
- (5) Income is imputed according to a parent's status as a full- or part-time student, whose education or retraining will result, within a reasonable time, in an economic benefit to the child for whom the support obligation is determined, unless actual income is greater. If the student is:
 - (a) full-time, the parent's earning capacity is based on full-time employment for 13 weeks and approximately half of full-time employment for the remaining 39 weeks of a 12-month period; or

- (b) part-time, the parent's earning capacity is based on full-time employment for a 12-month period.
- (6) Income is not imputed if any of the following conditions exist:
 - (a) the reasonable and unreimbursed costs of child care for dependents in the parent's household would offset in whole or in substantial part, that parent's imputed income;
 - (b) a parent is physically or mentally disabled to the extent that the parent cannot earn income, or is incarcerated for more than 180 days;
 - (c) unusual emotional and/or physical needs of a legal dependent require the parent's presence in the home;
 - (d) the parent has made diligent efforts to find and accept suitable work or to return to customary self-employment, to no avail; or
 - (e) the court or hearing officer makes a finding that other circumstances exist which make the imputation of income inequitable. However, the amount of imputed income shall be decreased only to the extent required to remove such inequity.

Authorizing statute(s): 40-5-203, MCA

Implementing statute(s): 40-5-209, MCA

History: NEW, 1998 MAR p. 2066, Eff. 11/1/98; AMD, 2012 MAR p. 747, Eff. 7/1/12; AMD, 2017 MAR p. 2441, Eff. 12/23/17; AMD, 2022 MAR p. 1878, Eff. 9/24/22.