



Frequently Asked Questions

(And Answers from
State Court Administrative Office
Friend of the Court Bureau)

FAQ 2013-01

March 21, 2013

Retroactive Modification of Child Support Obligation

This FAQ answers common questions and clarifies policy related to SCAO Administrative Memorandum 2010-03, Credit Balances on Friend of the Court Cases. Several questions specifically relate the procedure for adjusting an order to avoid creating a credit balance when retroactively modifying the support obligation to the date of service on the other party.

If court or friend of the court staff have questions or would like additional clarification, please contact Daniel Bauer at bauerd@courts.mi.gov or 517-373-5975.

#1 Q: On page 9, footnote 17, Administrative Memorandum 2010-03 references a formula for determining how long and by how much a support order can be modified to eliminate the overpayment. Has the FOCB produced anything to aid FOC offices in computing a deviation?

A: Yes. The FOCB has developed a Retroactive Modification Calculator, available online in [Excel 2003](#) format. Those who wish to use the Excel 2010 version of the spreadsheet may e-mail Daniel Bauer at bauerd@courts.mi.gov.

#2 Q: How does this spreadsheet work?

A: The spreadsheet allows a user to enter case-specific information into yellow-highlighted cells. The spreadsheet contains formulas complying with the suggestion in Section C.5.c. of the administrative memorandum. (The spreadsheet is protected to allow updates only in the yellow-highlighted cells; this ensures that no one can accidentally change the hidden formulas.)

The user must enter the original current support obligation, modified current support obligation, date the judge signed the order, and the retroactive effective date. This information will allow the spreadsheet to recompute the appropriate charges during the retroactive period. The user must also enter the current arrearage. The spreadsheet will use the current arrearage amount to compute whether a negative balance will be created once this order is entered.

If a negative balance will be created, the spreadsheet will allow the user to identify a specific duration (from 1 to 36 months), amount (from \$1 to \$[an amount equal to the current support obligation amount]), or percentage (from 1 percent to 100 percent) of the order reducing the current support. The spreadsheet will calculate how long the reduced order must be in effect, and how much to charge for current support in order to address the overpayment.

The user can then select whether to reduce by a percentage, duration, or amount. After making this selection, the spreadsheet will then create proposed deviation language that can be copied and pasted on the FOC-10 in the “other” box.

#3 Q: Are there any limitations within the spreadsheet?

A: Yes. The spreadsheet will not allow a “negative” current support charge (i.e., where the payer and the payee under the child support order change roles for the duration of the deviation). Therefore, any dollar amount adjustment must be less than or equal to the amount of current support charged under the guidelines.

In addition, the spreadsheet will not accurately compute a deviation for longer than three years. This is partly because the parties are eligible to request a review and modification three years after the most recent review and modification. Therefore, it would unnecessarily complicate a subsequent review to address a still-existing overpayment from the prior review three years ago.

#4 Q: If the court enters the order with the deviation, what do I do with the existing arrears?

A: The purpose of the deviation is to address the arrears without the FOC having to monitor and track the arrearage for the duration of the deviation. If the court orders the deviation, the FOC staff can set the existing negative arrears amount to zero when entering the order onto MiCSES. If the child support obligation amount changes by order of the court before the deviation period has elapsed, the FOC staff should inform the court that the prior adjustment to address the negative arrears has not eliminated the overpayment, and follow the court’s direction as to whether to reinstate the negative arrears or not.

#5 Q: Is the FOC staff exercising judicial discretion or advocating for a party by proposing a deviation?

A: No. The FOC staffperson is informing the court of the creation of the negative arrears with the retroactive modification, and proposing a way for the court to direct the FOC to administratively address that overpayment through the court’s order. The court can choose to accept the FOC recommendation or order some other alternative. If the court does not like the FOC recommendation on the deviation, the court can ask the FOC to rerun the calculator for another duration, percentage, or amount. Requesting administrative direction from the court is not an exercise of judicial discretion nor is it advocating for a particular party.

#6 Q: Can the judge or referee use this calculator, rather than FOC staff?

A: Yes, if the judge or referee chooses to do so.

#7 Q: Can the spreadsheet be printed?

A: Yes. After all the data is entered and the selections are made, the spreadsheet can be printed on one 8 ½ x 11 page (landscape), provided to the parties, and stored in the case file.