

## Alberta Child Support Recalculation Program

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The **Alberta Child Support Recalculation Program (Recalculation Program)** is a government program (separate from MEP) that helps parents update their Child Support Orders or Child Support Agreements on an annual basis if there are changes to their incomes.

The **Recalculation Program** is intended to provide a cost-effective way to annually adjust child support without need to involve lawyers or for negotiations with the other parent. Either parent can register with the Program and there is a service fee of \$77 per parent each year that the Recalculation Program recalculates the child support amount. There is also an option to register with the Recalculation Program at the same time as registering with MEP by signing an additional page.

The **Recalculation Program** can recalculate:

1. Monthly amounts for *Guideline* child support – this is the amount of child support a payor parent must pay, according to the tables in the *Federal Child Support Guidelines*.

This is also known as “Section 3 child support” if the child or children live primarily with one parent, or “Section 9 child support” if there is shared parenting.

2. Proportionate shares of special or extraordinary expenses – this is the amount that each parent is responsible for paying for additional expenses in certain categories which are set out in the *Federal Child Support Guidelines*. These special or extraordinary expenses are also known as “Section 7 expenses”. They may include costs related to, for example: childcare, medical or dental expenses not covered by insurance or extraordinary extra-curricular expenses.

To adjust child support set out in an Order or Agreement, it is necessary to have a “change in circumstances”. The only change in circumstances regarding child support payments considered by the **Recalculation Program** is a change in *Guideline* income, as demonstrated in the parents’ income tax returns. A change in income may result in an increase or decrease in child support and proportionate shares of special expenses.

Because the **Recalculation Program** is an administrative program, it cannot weigh evidence, exercise discretion, or consider special circumstances like a Court can. Thus, it is not suitable for all Child Support Orders, especially those involving self-employment or income flowing through corporations.

If one party fails to disclose their income for the annual review the **Recalculation Program** may apply a “deemed income increase”. For example, if less than one year has passed since the last Order the deemed increase will be 10%, if it is more than one year but less than two years it will be an increase of 13%, and so on. If it is more than 5 years since the last Order, then it will be as much as a 25% increase in the income of the parent who has not disclosed their income.

When the **Recalculation Program** finds a difference of at least \$10 per month in child support or at least 10% in proportionate shares of special expenses, the Recalculation Decision issued changes the amount of child support payable in the Court Order or Agreement. The Recalculation Decision functions as an updated Child Support Order and it is sent to the parents, to MEP and to the Court for filing. Any objection must be made within 30 days from the date of the

Recalculation Decision. The decisions are effective the 31<sup>st</sup> day after receipt by the parents, unless either objects. To object, the parent must commence an application to vary, suspend or terminate their Child Support Order.

The **Recalculation Program** recalculates on the anniversary date of the Child Support Order or Agreement.

All Child Support Orders in Alberta must now have a clause that states that the Order *may* be recalculated by the **Recalculation Program** or a clause that states that the Order will *not* be recalculated by the Recalculation Program. The **Recalculation Program** has the discretion to determine if an Order cannot be recalculated even if the Order includes the clause that it may be recalculated. [Note, however, that the **Recalculation Program** is not the only way to recalculate or adjust child support when there is a change in income or the parenting arrangements].

### Eligibility for the Recalculation Program

To be eligible to use the Recalculation Program a parent must have a valid Child Support Order or Child Support Agreement. Either the payor parent or recipient parent may ask the Recalculation Program to recalculate the Child Support in their Court Order or Agreement.

The specific requirements to be eligible for the Recalculation Program include:

- Both the payor parent and the recipient parent must live in Alberta. The only exception to this is when the recipient parent, whose income is not needed for recalculation, lives in Canada but outside of Alberta and requests registration in the program.
- The Child Support Order must be dated May 1, 1997 or later.
- The Child Support Order must have been granted in Canada.
- The Child Support ordered must be in accordance with the *Federal Child Support Guidelines*. (For example, if the parents agreed to depart from the *Guidelines* when they finalized their Child Support Order of Agreement, then it will not be possible for the **Recalculation Program** to do the recalculation).
- The Child Support Order must state the payor parent's *Guideline* income and the number of children for whom support is payable.
- The Child Support Order must *not*:
  - a. State that the payor's income was imputed.
  - b. Set a specific Court review date for support that is still in the future.
  - c. Direct that the **Recalculation Program** is not to recalculate child support.
  - d. Use the words "without prejudice" or "pre-disclosure" in describing how child support was granted, unless the Order also specifically states that the **Recalculation Program** may be used to recalculate the child support.
- The Child Support Order must not direct the **Recalculation Program** to recalculate using any documentation other than the income information the program normally requires. This is usually the tax returns.

For a Child Support Agreement to be eligible for recalculation, the Agreement must meet all of the above criteria and must also be enforceable under the *Maintenance Enforcement Act*. This means that the Agreement must have been filed in an Alberta Court.

The **Recalculation Program** will often decline to calculate child support when parents earn income from self-employment, partnerships or have income flowing through private corporations. In these cases, a parent's available income for child support is not usually included in Line 150 of the income tax return and the Program is not able to determine the *Guideline* income for an annual recalculation of child support.

The Program may be able to recalculate when a parent is self-employed if the other parent consents to accept the self-employed parent's reported *Guideline* income.

The **Recalculation Program** may still decline to recalculate a Child Support Order or Agreement that is in all other ways eligible in cases where it is deemed too complex, recalculation would produce an unjust result, or both parties have failed to pay previous service fees.

## Registration and Obligations

To register with the **Recalculation Program**, a parent must provide:

- The payor's or recipient's own contact information.
- The contact information for the other parent.
- The Child Support Order or Agreement.
- Any information required by the **Recalculation Program** for the purpose of determining eligibility.

While either the payor or the recipient parent may register with the Recalculation Program, the program must be satisfied that both parents are aware that a Child Support Order or Agreement has been registered before they proceed with the recalculation. Once they are satisfied this is the case, both parents are obligated to take part in the program.

Once registered with the Recalculation Program, income information must be provided at least 60 days before the anniversary date of the Child Support Order or Agreement. The income information required includes:

- A copy of the payor's or recipient's personal income tax return for the most recent year.
- A copy of every notice of assessment and reassessment issued to the payor or recipient for the most recent year.
- Other information as requested by the **Recalculation Program** for the purpose of determining ownership of or involvement in any privately held corporation.

Each parent must also pay the \$77 service fee for each recalculation that results in a change in the child support payable.

**References & Further Information:** [www.recalculation.alberta.ca](http://www.recalculation.alberta.ca)