

A Guide to Child Support & Spousal Maintenance Cost-of-Living Adjustments

Revised April 2010

**OFFICE ON THE ECONOMIC STATUS OF WOMEN (OESW)
85 STATE OFFICE BUILDING
100 REV. DR. MARTIN LUTHER KING JR. BOULEVARD
ST. PAUL, MN 55155**

oesw@oesw.leg.mn ♦ 651.296.8590

The information contained in this document is also available on our website

<http://www.oesw.leg.mn>

How Do I Use This Packet?

The purpose of this packet is to help obtain a cost-of-living adjustment to a child support or spousal maintenance order. This packet contains information about the cost-of-living adjustment process as well as the necessary forms to complete. These include the Cost-of-Living Adjustment Form, the Letter of Notification Form, and Affidavit of Service by Mail Form. ***The forms provided in this packet should only be used for court orders that were issued in the state of Minnesota.*** If your divorce or child support order is from another state, you cannot use this packet.

There is a separate section containing all necessary forms. A new section is indicated by a section divider page. The “Cost-of-Living Adjustment Form” and the “Letter of Notification” each have associated Worksheets that will help you to prepare for completing the blank forms (provided). There will be an example of a correctly completed Worksheet for each of these. The examples are meant to be a reference tool for completing each Worksheet.

Contents

Overview of the Cost-of-Living Adjustment Process

Cost of Living Adjustments in Child Support/Spousal Maintenance Orders	2
Frequently Asked Questions: Cost-of-Living Adjustments.....	3
Cost of Living Adjustment Checklist	6

Calculating Your Cost-of-Living Adjustment..... 7

Example: Jane Doe’s Story	8
Example Cost-of-Living Adjustment Form Worksheet.....	9
Cost-of-Living Adjustment Form Worksheet.....	12

Cost-of-Living Adjustment Forms 16

Example Cost-of-Living Adjustment Form	17
Cost-of-Living Adjustment Form	18
Example Letter of Notification	20
Letter of Notification	21
Example Affidavit of Service by Mail.....	22
Affidavit of Service by Mail.....	23

Appendix A: Further Information on Adjustments 24

Appendix B: Supporting Materials & Resources

Sources of Information	28
Cost-of-Living Adjustments in Maintenance or Child Support Orders--Minnesota’s Law	30

**An Overview of the
Cost-of-Living Adjustment Process**

Cost-of-Living Adjustments in Child Support/Spousal Maintenance Orders

DO NOT USE This Packet If

The county is collecting child support on your behalf:

If the [county child support office](#) is collecting child support for you, that office will take care of calculating the biennial cost-of-living adjustment from the person who pays your child support. The county will do this adjustment in May, regardless of the dates of your original child support and/or spousal maintenance orders. You will **not** need to complete the forms provided in this packet.

When You SHOULD Use This Packet

If your child support and/or spousal maintenance order states you are entitled to automatic adjustments, these adjustments do NOT occur automatically:

- Your child support/spousal maintenance order may include language which states you are entitled to an “automatic” cost-of-living adjustment every two years; however the adjustment does **not** happen automatically.

If you receive child support and/or spousal maintenance WITHOUT the county’s assistance you must:

- Determine the cost-of-living adjustment.
- File your cost-of-living adjustment by completing the three forms which are contained in this packet: Cost-of-Living Adjustment Form, Letter of Notification, and Affidavit of Service by Mail.
- Notify the person who pays the child support/spousal maintenance about the adjusted amount and when it is to take effect.
- File the **original** forms in this packet with the court where your child support or divorce decree was finalized, accompanied by the appropriate filing fee.
- Send copies of the forms to the employer of the person who pays your child support/spousal maintenance indicating the new amount of the withholding, if the support or maintenance is paid to you directly by the employer.
- This process may be completed in any month as long as it has been two years since the last adjustment.

If the county is ONLY collecting spousal maintenance on your behalf you must:

- Determine the cost-of-living adjustment.
- File your cost-of-living adjustment by completing the three forms which are contained in this packet: Cost-of-Living Adjustment Form, Letter of Notification, and Affidavit of Service by Mail.
- Notify the person who pays the child support/spousal maintenance about the adjusted amount and when it is to take effect.
- File the **original** forms in this packet and the appropriate filing fee with the court where your divorce decree was finalized.
- File copies of the completed forms with the [Child Support Enforcement Office](#) in the county where the payments are sent.
- Send copies of the forms to the employer of the person who pays your spousal maintenance indicating the new amount of the withholding, if the maintenance is paid to you directly by the employer.
- This process may be completed in any month as long as two years elapsed between adjustments.

Frequently Asked Questions: Cost-of-Living Adjustments

- *What is a cost-of-living adjustment?*
- *Are you eligible for a cost-of-living adjustment?*
- *When should you file for the adjustment?*
- *How is the amount determined?*
- *Where do you file these papers?*
- *What is your filing fee?*
- *What is a modification of child support?*

What is a cost-of-living adjustment?

Most child support orders issued in Minnesota since August 1, 1983, have included a requirement that the child support amount be adjusted every two years based on changes in the cost of living. The cost-of-living adjustment reflects the change in cost of items such as food, clothing, housing, etc.

Cost-of-living adjustments are designed to help you keep up with inflation--to recognize that the costs of caring for your children today are higher than they were when your child support was established. Because of inflation, clothing and food cost more today than when the child support was established, and because inflation rates can fluctuate significantly, it is important to keep cost-of-living adjustments up to date.

Are you eligible for a cost-of-living adjustment?

You should check your child support/spousal maintenance order to see if it provides for a cost-of-living adjustment. Usually this information appears in Appendix A of the order or divorce decree.

If there is no reference to a cost-of-living adjustment in your child support/spousal maintenance order, you must first go through the process of adding this provision. If you receive child support or both child support and spousal maintenance, ask the Child Support Enforcement Office in your county for help. For more information about contacting your Child Support Enforcement Office, please see the "Child Support Enforcement Office" entry in "Sources of Information" on page 28. This office does not provide assistance if you receive spousal maintenance only. If you receive only spousal maintenance, you should talk to an attorney about adding a cost-of-living adjustment provision to your order. For more information about talking to an attorney, please see the "Legal Services" entry in "Sources of Information" on page 29.

When should you file for the cost-of-living adjustment?

Even though you are entitled to a cost-of-living adjustment, you must *request* the adjustment after two years have passed. It does *not* happen automatically unless the county is collecting child support for you.

You can only request a cost of living adjustment every TWO years, not every year. If it has been more than two years since the last adjustment or modification, you can compute the adjustment for a period of more than two years. Court decisions have upheld the right to do so, see *Grachek v. Grachek*, 750 NW.2d 328 (Minn. App. 2008).

How is the amount of the adjustment determined?

The adjustment you are entitled to is based on the **Consumer Price Index (CPI)**. This is a standard measure of the inflation rate and is determined by the U.S. Department of Labor. The CPI typically utilizes what is known as a base year system to calculate the data you see on the CPI Table. In a base system, the CPI data is determined by breaking down various spending areas from a specific year (the “base year”) and weights the following years accordingly. There are several base years used in different CPI. The CPI table in this packet uses the year 1967 as the base year. It does not matter which base year you use, but **you must use the same base each time** you calculate an adjustment. Unless your child support order or divorce decree asks you to use a CPI table that calculates its numbers with a different base year, it is sufficient to use a CPI table with a 1967 base year .

The CPI table can be found on the OESW website at <http://www.oesw.leg.mn/cola/cpi.htm> and a hard copy is included with this packet if you’ve received it via US mail. This table lists two different CPIs. They are the monthly CPI-U and the semi-annual MSP CPI-U. The “U” stands for “urban consumers” and “MSP” represents a measure of the inflation rate specifically for Minneapolis/St. Paul region.

- If your child support order **specifies** which CPI to use, you must use the CPI indicated in your order.
- If your child support order **does not specify** which CPI you must use, select the appropriate CPI for the region in which your Child Support Order or Divorce Decree was issued:
 - If your Child Support Order or Divorce Decree was issued **outside** of the Minneapolis/St. Paul region, you will use the CPI-U.
 - If your order was issued **within** the Minneapolis/St. Paul region *you may choose* either the monthly CPI-U or the semi-annual MSP CPI-U to calculate the adjustment but you **must be consistent** with the index you use (e.g. both must be the monthly CPI-Us or both must be the semi-annual MSP CPI-Us). There is no advantage to using one CPI over the other.
- The appropriate CPI entries are chosen by selecting the entry closest to the last modification or adjustment in your support or maintenance order and the entry closest to the current date.

Note: The MSP CPI is available only twice a year. The MSP CPI listed in the January column of the table reflects July through December of the preceding year, and the MSP CPI listed in the July column of the table reflects January through June of that year.

Where do you file these papers?

After completing the forms in this packet (Cost-of-Living Adjustment Form, Letter of Notification, Affidavit of Service by Mail) you should make several copies of them.

- 1) Send all the ***original*** forms (Cost-of-Living Adjustment Form, Letter of Notification, Affidavit of Service by Mail), accompanied by the appropriate filing fee, to the court where your child support order or divorce decree was finalized, to be placed in your file. The Court Administrator's Office in that county can help you get the appropriate address. Please see page 29 for more information about contacting a county's Court Administrator's Office.
- 2) Send ***copies*** of the Cost-of-Living Adjustment Form and the Letter of Notification to the person responsible for paying child support/spousal maintenance.
- 3) Send ***copies*** of Cost-of-Living Adjustment Form and the Letter of Notification to the employer if the person is paying you through his or her employer.
- 4) Send ***copies*** of the Cost-of-Living Adjustment Form and the Letter of Notification to the county child support enforcement office, if you are receiving spousal maintenance ***only*** and your ex-spouse sends the payments through the county.
- 5) Finally, be sure to keep ***copies of all the forms*** for your own records.

What is your filing fee?

Submitting a motion to the court requires the payment of a filing fee. Filing fees vary by the type of motion, the court that the motion is made in, and the county that the court is in. For a list of filing fees in Minnesota, see <http://www.mncourts.gov/?page=1020> or consult the Court Administrator. To waive the filing fee, consult a lawyer to determine your eligibility. Fee waiver forms are available at <http://www.mncourts.gov/default.aspx?page=513&category=56> .

(Further questions are answered in Appendix A)

Cost of Living Adjustment Checklist

If your child support/spousal maintenance order says you are entitled to a cost-of-living adjustment and the county does not make the calculation for you, *you must complete all of the following items:*

Step	Instructions	Completed
Calculate the amount of adjustment you should receive	Complete the Cost-of-Living Adjustment Form Worksheet using the provided instructions and the CPI Table. Use the completed worksheet to fill out the Cost-of-Living Adjustment Form.	<input type="checkbox"/>
Notify the person who pays the child support/spousal maintenance	You must send the person who pays you child support/spousal maintenance a notice that it is time to raise the amount he or she pays based on the cost-of-living adjustment. Use the Letter of Notification Worksheet and instructions to do this. Then fill out the Letter of Notification and send a copy of it with a copy of the Cost-of-Living Adjustment Form to the person who pays child support/spousal maintenance. <i>You must give the person at least 20 days notice before the date you expect to be paid the new amount.</i> (For example, if the adjustment is to be effective August 1, the letter and notice must be postmarked by July 10.) If you are being paid through an employer, send a set of copies to the employer. If you receive spousal maintenance payments through the county, send copies to the county. (Note: if the employer pays the county, send to both.)	<input type="checkbox"/>
File the forms with the court	You must file the <i>original</i> Cost-of-Living Adjustment Form, the <i>original</i> Letter or Notification, and the <i>original</i> notarized Affidavit of Service by Mail with the court administrator's office in the county where your child support/spousal maintenance order was filed. Fill out the Affidavit of Service by Mail, <u>except for your signature.</u> <i>It has to be notarized (witnessed) by a notary public.</i> The court may have a notary public available or you may find one at a local bank. Call the court administrator's office in the county where your child support/spousal maintenance order was entered if you have questions about where to mail the papers to the court so that they can be placed in your file.	<input type="checkbox"/>

After submission of your proposed cost-of-living adjustment:

Either the adjustment will take effect or a hearing will be held. The person who pays you child support/spousal maintenance has the right to file a motion asking that some or all of the proposed cost-of-living adjustment not take effect. The motion will include a hearing date, time and location. If the person who pays you has not had an increase in income over the past two years, the court *could* decide not to require an adjustment. The hearing may not occur until sometime after the effective date you had requested. If the person who pays you does *not* request a hearing, the new amount *must* be paid by the date you have specified. Otherwise, he or she is in violation of the child support/maintenance order.

Calculating Your Cost-of-Living Adjustment

1. Example: Jane Doe's Story
2. Example: Calculating Your Cost-of-Living Adjustment Worksheet
3. Calculating Your Cost-of-Living Adjustment Worksheet

Note: The completed Cost-of-Living Adjustment form and Letter of Notification are not provided in this example. These forms would be completed simply by transferring the answers from the worksheet in to the appropriate blank on the corresponding form.

Example: Jane Doe's Story

Purpose: This fact pattern describes the situation of Ms. Jane Doe, a fictional character. The fact pattern is intended to illustrate how to use the provided forms and worksheets in order to obtain a cost-of-living adjustment. Please read the facts carefully and then follow along as we go through process of obtaining a cost-of-living adjustment. Note that your facts will differ.

Jane Doe's Story: Jane Doe is living in the city of Walker, in Cass County. Jane Doe divorced John Doe in July of 2006 in case # 000000. Jane obtained an order for spousal maintenance dated July 21, 2006. The spousal maintenance order was issued in Ramsey County from the County Court. They have no children and no child support was awarded. The Ramsey court is in the Second Judicial District. The spousal maintenance order was part of the divorce settlement and provides her \$600.000 per month. She has never taken a cost-of-living adjustment.

It is now November of 2009 and more than two years has passed since the spousal maintenance decree. Jane has decided to file for her first cost-of-living adjustment. Because her divorce decree did not specify what Consumer Price Index (CPI) she needed to use, she elected to use the 1967 basis CPI-U table provided at the end of this packet. Once she has selected the CPI, she must always use that CPI when calculating any future adjustments.

To use the CPI table she must find two entries, the first at the current year and month (November of 2009) and the second at the year and month when her decree issued (July of 2006). To use the MSP CPI-U she would simply chose the entry that comes closest to but is at or earlier than the target month. For November 2009, Jane would use the July 2009 entry on the MSP CPI-U. With the two entries, Jane is ready to fill out the Cost-of-Living Adjustment worksheet.

Consumer Price Index (CPI) Table

		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2008	CPI-U	632.3	634.1	639.6	643.5	648.9	655.5	658.9	656.3	655.4	648.8	636.3	629.8
	MSP CPI-U	634.4	NA	NA	NA	NA	NA	654.5	NA	NA	NA	NA	NA
2009	CPI-U	632.5	635.6	637.2	638.8	640.6	646.1	645.1	646.5	646.9	647.6	648.0	NA
	MSP CPI-U	658.8	NA	NA	NA	NA	NA	647.9	NA	NA	NA	NA	NA
		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC

		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
2006	CPI-U	593.9	595.2	598.6	603.5	606.5	607.8	609.6	610.9	607.9	604.6	603.6	604.5
	MSP CPI-U	609.4	NA	NA	NA	NA	NA	613.1	NA	NA	NA	NA	NA
2007	CPI-U	606.3	609.6	615.1	619.1	622.9	624.1	624.0	622.8	624.5	625.9	629.6	621.1
	MSP CPI-U	619.9	NA	NA	NA	NA	NA	630.5	NA	NA	NA	NA	NA

Example Cost-of-Living Adjustment Form Worksheet

Purpose: This is example of how to complete the Cost-of-Living Adjustment Form worksheet using the fictional situation on the previous page. To use this example, please read the fact pattern and follow along as we obtain a cost-of-living increase for Ms. Jane Doe.

1

STATE OF MINNESOTA

The name of the county your child support/spousal maintenance order was issued

Ramsey

The name of the court where your child support/spousal maintenance was issued (this should appear on your order as "County" or "District" court)

County

Judicial District Second District

Case # 000000

*Note: All of this information should be indicated in your child support order or your divorce decree

2

In Re the Marriage of:

Jane Doe, Petitioner and

John Doe, Respondent

This section should be exactly the same as it appears at the beginning of your child support/spousal maintenance order. You may have to change the final form. You may have to cross out "In Re the Marriage of" if your child support was not part of a divorce settlement. You may have to change "Petitioner" to "Plaintiff" and "Respondent" to "Defendant" Use your child support/spousal maintenance as your guide.

All of the above information should be indicated on your child support order or divorce decree.

3

The cost-of-living adjustment in child support or spousal maintenance requested in Step 7 below has been calculated pursuant to Minn. Stat. 518A.75 and the Child Support Order/Spousal Maintenance order dated July 21, 2006 (Fill in the date when your child support-spousal maintenance order was final. This date should appear at the front of the order or divorce decree)

STEP 1.

Current child support or spousal maintenance order amount. \$600.00/month

Jane Doe's monthly maintenance amount

Please insert any previous adjustments or increases, if any

None

This amount is based on your child support order or divorce decree. Include any previous adjustments or increases.

Jane Doe has never filed for a cost-of-living adjustment and her maintenance order has never been modified. COLA adjustments compound so that each new adjustment will be measured from the amount and date of the previous.

STEP 2.

Find the most recent CPI-U (available at <http://www.oesw.leg.mn/cola/cpi.htm>). Please see “Sources of Information” on page 28 to obtain a current CPI table. If you are filing this request to get an adjustment by the first day of a month, the most recent CPI available maybe be from several months earlier, depending upon when you file this form. The CPI for any given month is available about the 15th of the following month. (For example, the CPI for June will be available about July 15.)

You will be using one of the two CPI indexes discussed previously (CPI-U or Mpls/StP CPI-U). If your child support/spousal maintenance order says you must use the Mpls./St. Paul CPI-U, use the same table. The Mpls./St. Paul CPI numbers are not available on a monthly basis. They are available only twice each year. You must use the last available figure listed in the table. For example, if you are doing this in April and need the Mpls./St. Paul CPI, you must use the January figure.

Use the appropriate CPI index with the “1967 Base”. The CPI numbers are *not* dollar amounts.

Write CPI number here. 648.0 This is the entry from the CPI-U table for November of 2009 – the closest entry to the current date

Write the most recent CPI-U **month used** November and **year used** 2009 from the CPI Table.

STEP 3.

The CPI-U for two years ago* (or since the year of your last cost-of-living adjustment). Look this up on the CPI table.

Write CPI number here. 609.6 This is the entry from the CPI-U table for July of 2006 – the later of when the support order was issued, last modified or last adjusted

Write the most recent CPI-U **month used** July and **year used** 2006 from the CPI Table.

*If you have not filed for a cost-of-living adjustment before, use the same month and same year your child support or maintenance order was final. If you have received a cost-of-living adjustment before, use the same month you used in Step 2 when you last filed.

STEP 4.

Subtract the CPI number in Step 3 from the CPI number in Step 2. If the answer you get after subtracting is bigger than the CPI number in Step 2, check your figures.

CPI (Step 2) 648.0 – CPI (Step 3) 609.6 = 38.4
Write your answer here. 38.4 The difference between the CPI-U entries

STEP 5.

Divide the answer you got in Step 4 by the CPI number in Step 3. Dividing the answer you got in Step 4 by the CPI number in Step 3 will give you the cost-of-living adjustment. The number will have a decimal in front of it. You will need to fill in only the first three numbers after the decimal point. (For example, an answer of “0.08632” can be written “0.086”)

Answer (Step 4) 38.4 / CPI (Step 3) 609.6 = 0.062

Write your answer here. 0.063

The decimal representation of the percent change in cost of living

STEP 6.

Multiply the answer you got in Step 5 by the number stated in Step 1 (the current child support/spousal maintenance order amount). Multiplying the answer you got in Step 5 by the number stated in Step 1 will give you the *dollar adjustment* to your child support or spousal maintenance.

Answer (Step 5) 0.063 x Amount (Step 1) \$600.00 = 37.8

Write your answer here. 37.8

The increase in Jane Doe’s monthly support payments

STEP 7.

Add the answer you got in Step 6 to the number stated in Step 1 (the current child support/spousal maintenance order amount). Adding the answer you got in Step 6 by the number stated in Step 1 will give you the total amount of the new child support/spousal maintenance, including the adjustment.

IN THE LAST LINE insert the date when the new child support or spousal maintenance amount will take effect (remember, you must give 20 days notice), how often you receive child support or spousal maintenance (weekly, monthly, etc.), and the new amount of the child support/spousal maintenance payment.

Note: If you are receiving both child support and spousal maintenance you should figure the cost-of-living adjustments for each separately, so that the legal record is clear. You may combine your separate final answers (the answers to Step 7) into one final answer on this form.

Answer (Step 6) 37.8 + Amount (Step 1) \$600.00 = \$637.80

Write your answer here. \$637.80

Jane Doe’s new total monthly support payments

The answer your got in Step 7 is the new child support/spousal maintenance amount

NOTICE: Beginning January 20, 2010 the new monthly child support/
(month, day, year) (monthly, weekly, etc.)

spousal maintenance amount is \$637.80.
(new amount)

This is the key statement that will go into Jane Doe’s notification letter. It provides the required 20 days of notice, a reminder of how often support is due, and what the new amount is.

Cost-of-Living Adjustment Form Worksheet

Purpose: The worksheet is a tool that will assist you in gathering and completing the information required to fill out the Cost-of-Living Adjustment Form that will be submitted. An example Worksheet has been provided to assist you in filling out your own. Once you complete the Worksheet, you will be able to use it to complete the Cost-of-Living Adjustment Form.

1

STATE OF MINNESOTA

The name of the county your child support/spousal maintenance order was issued

The name of the court where your child support/spousal maintenance was issued (this should appear on your order as "County" or "District" court)

Judicial District _____

Case # _____

*Note: All of this information should be indicated in your child support order or your divorce decree

2

In Re the Marriage of:

_____, Petitioner and

_____, Respondent

This section should be exactly the same as it appears at the beginning of your child support/spousal maintenance order. You may have to change the final form. You may have to cross out "In Re the Marriage of" if your child support was not part of a divorce settlement. You may have to change "Petitioner" to "Plaintiff" and "Respondent" to "Defendant" Use your child support/spousal maintenance as your guide.

All of the above information should be indicated on your child support order or divorce decree.

3

The cost-of-living adjustment in child support or spousal maintenance requested in Step 7 below has been calculated pursuant to Minn. Stat. 518A.75 and the Child Support Order/Spousal Maintenance order dated _____ (Fill in the date when your child support-spousal maintenance order was final. This date should appear at the front of the order or divorce decree)

STEP 1.

Current child support or spousal maintenance order amount. _____

Please insert any previous adjustments or increases, if any

This amount is based on your child support order or divorce decree. Include any previous adjustments or increases.

STEP 2.

Find the most recent CPI-U (available at <http://www.oesw.leg.mn/cola/cpi.htm>). Please see “Sources of Information” on page 28 to obtain a current CPI table. If you are filing this request to get an adjustment by the first day of a month, the most recent CPI available will be from several months earlier, depending upon when you file this form. The CPI for any given month is available about the 15th of the following month. (For example, the CPI for June will be available about July 15.)

You will be using one of the two CPI indexes discussed previously (CPI-U or Mpls/StP CPI-U). If your child support/spousal maintenance order says you must use the Mpls./St. Paul CPI-U, use the same table. The Mpls./St. Paul CPI numbers are not available on a monthly basis. They are available only twice each year. You must use the last available figure listed in the table. For example, if you are doing this in April and need the Mpls./St. Paul CPI, you must use the January figure.

Use the appropriate CPI index with the “1967 Base”. The CPI numbers are *not* dollar amounts.

Write CPI number here. _____

Write the most recent CPI-U **month used** _____ and **year used** _____ from the CPI Table.

STEP 3.

The CPI-U for two years ago* (or since the year of your last cost-of-living adjustment). Look this up on the CPI table.

Write CPI number here. _____

Write the most recent CPI-U **month used** _____ and **year used** _____ from the CPI Table.

*If you have not filed for a cost-of-living adjustment before, use the same month and same year your child support or maintenance order was final. If you have received a cost-of-living adjustment before, use the same month you used in Step 2 when you last filed.

STEP 4.

Subtract the CPI number in Step 3 from the CPI number in Step 2. If the answer you get after subtracting is bigger than the CPI number in Step 2, check your figures.

CPI (Step 3) _____ – CPI (Step 2) _____ = _____

Write your answer here. _____

STEP 5.

Divide the answer you got in Step 4 by the CPI number in Step 3. Dividing the answer you got in Step 4 by the CPI number in Step 3 will give you the cost-of-living adjustment. The number will have a decimal in front of it. You will need to fill in only the first three numbers after the decimal point. (For example, an answer of “0.08632” can be written “0.086”)

Answer (Step 4) _____ / CPI (Step 3) _____ = _____

Write your answer here. _____

STEP 6.

Multiply the answer you got in Step 5 by the number stated in Step 1 (the current child support/spousal maintenance order amount). Multiplying the answer you got in Step 5 by the number stated in Step 1 will give you the *dollar adjustment* to your child support or spousal maintenance.

Answer (Step 5) _____ x number stated in Step 1 _____ = _____

Write your answer here. _____

STEP 7.

Add the answer you got in Step 6 to the number stated in Step 1 (the current child support/spousal maintenance order amount). Adding the answer you got in Step 6 by the number stated in Step 1 will give you the total amount of the new child support/spousal maintenance, including the adjustment.

IN THE LAST LINE insert the date when the new child support or spousal maintenance amount will take effect (remember, you must give 20 days notice), how often you receive child support or spousal maintenance (weekly, monthly, etc.), and the new amount of the child support/spousal maintenance payment.

Note: If you are receiving both child support and spousal maintenance you should figure the cost-of-living adjustments for each separately, so that the legal record is clear. You may combine your separate final answers (the answers to Step 7) into one final answer to put on this form.

Answer (Step 6) _____ + number stated in Step 1 _____ = _____

Write your answer here. _____

The answer your got in Step 7 is the new child support/spousal maintenance amount

NOTICE: Beginning _____ the new _____ child support/
(month, day, year) (monthly, weekly, etc.)

spousal maintenance amount is \$ _____.
(new amount)

*You are now ready to complete the Cost-of-Living Adjustment Form. You will be able to transfer the answers you got for the various Steps on the Worksheet onto the Cost-of-Living Adjustment Form. For example, the answer stated in **Step 1** of the Cost-of-Living Adjustment Form Worksheet will be the answer to **Step 1** on the Cost-of-Living Adjustment form. When you are done filling out the form, remove it from this booklet and use it to make two copies** , one for yourself and one for the person who pays you child support and/or maintenance. File the original Cost-of-Living Adjustment Form along with the completed original Letter of Notification and Affidavit of Service by Mail Forms in this packet with your other child support/spousal maintenance records at the court.*

****Note:** *If you are being paid directly by your ex-spouse's employer, you will also need to send a copy to the employer. If you are receiving spousal maintenance only, you may also need to send copies to your ex-spouse's employer and to the Child Support Enforcement Office if the payments are sent to them.*

Cost-of-Living Adjustment Forms

1. Example Cost-of-Living adjustment Form
2. Cost-of-Living Adjustment Form
3. Example Letter of Notification
4. Letter of Notification
5. Example Affidavit of Service by Mail
6. Affidavit of Service by Mail

All entries on this form are calculated on the cost-of-living adjustment worksheet.

Example Cost-of-Living Adjustment Form

1 STATE OF MINNESOTA

County **Ramsey**

Court **District**

Judicial District **Second**

Case # **000000**

2 In Re the Marriage of:

 Jane Doe , Petitioner and

 John Doe , Respondent

Case and court information from where the order or decree creating the support obligation issued

The names of the parties as they appear on the order or decree

3

The cost-of-living adjustment in child support or spousal maintenance requested in Step 7 below has been calculated pursuant to Minn. Stat. 518A.75 and the Child Support/Spousal Maintenance Order dated **July 21, 2006** .

Date of the original order or decree

STEP 1: Current child support or spousal maintenance order amount \$ **600**

Amount of the original support payments

STEP 2: The most recent CPI-U **648.0**
Month used **November** Year used **2009**

Entry from the CPI table closest to the current date

STEP 3: The CPI-U for two years ago (or since the last change) **609.6**
Month used **July** Year used **2006**

Entry from the CPI table nearest the last change in support amount

STEP 4: Subtract the number in Step 3 from the number in Step 2.
Write answer here. **38.4**

STEP 5: Divide the number you got in Step 4 by the number on the line in Step 3.
Write answer here. **0.063**

Decimal percent change in cost of living since the last adjustment

STEP 6: Multiply the number in Step 5 by the number in Step 1.
Write answer here. **37.8**

Additional payment that will be added to the support payments

STEP 7: Add the number in Step 6 to the number in Step 1. This is the new child support/spousal maintenance payment. Write answer here. **637.8**

Total new support payment after cost-of-living adjustment

NOTICE: Beginning **January 20, 2010** the new **monthly** child

support/ spousal maintenance amount is \$ **637.8** .

Key sentence setting out new support payment terms

Cost-of-Living Adjustment Form

1

STATE OF MINNESOTA

County _____

Court _____

Judicial District _____

Case # _____

2

In Re the Marriage of:

_____, Petitioner and

_____, Respondent

3

The cost-of-living adjustment in child support or spousal maintenance requested in Step 7 below has been calculated pursuant to Minn. Stat. 518A.75 and the Child Support/Spousal Maintenance Order dated _____ .

STEP 1: Current child support or spousal maintenance order amount \$ _____

STEP 2: The most recent CPI-U _____
Month used _____ Year used _____

STEP 3: The CPI-U for two years ago (or since the last change) _____
Month used _____ Year used _____

STEP 4: Subtract the number in Step 3 from the number in Step 2.
Write answer here. _____

STEP 5: Divide the number you got in Step 4 by the number on the line in Step 3.
Write answer here. _____

STEP 6: Multiply the number in Step 5 by the number in Step 1.
Write answer here. _____

STEP 7: Add the number in Step 6 to the number in Step 1. This is the new child support/spousal maintenance payment. Write answer here. _____

NOTICE: Beginning _____ the new _____ child
support/ spousal maintenance amount is \$ _____.

*You are now ready to complete the Letter of Notification and Affidavit of Service by Mail. You will be able to transfer the answers you got for the various Steps on the Worksheet onto the Letter of Notification Form. For example, the answer state in **Step 1** of the Letter of Notification Form Worksheet will be the answer to **Step 1** on the Letter of Notification form. When you are done, remove the completed form from this booklet and use it to make two copies***, one for yourself and one for the person who pays you child support and /or maintenance. File the original Letter of Notification Form along with the completed original Cost-of-Living Adjustment and Affidavit of Service by Mail Forms in this packet with your other child support/spousal maintenance records at the court.*

****Note:** *If you are being paid directly by your ex-spouse's employer, you will also need to send a copy to the employer. If you are receiving spousal maintenance only, you may also need to send copies to your ex-spouse's employer and to the Child Support Enforcement Office if the payments are sent to them.*

Example Letter of Notification

Date: December 31, 2009

This is the date you mail the letter and forms

To: Name John Doe
Address 10000 1st Street
Somewhere, Minnesota, 00000

This is the name and address of the person who pays your child support and/or spousal maintenance payments. For Jane, this is John Doe.

Notice of Cost-of-living Adjustment In Re the Marriage of:

Jane Doe, Petitioner and
John Doe, Respondent

These are the names as they originally appear on your original child support order or divorce decree. In some jurisdictions these will be called "Plaintiff" and "Defendant" instead. Jane was listed as petitioner and her ex-husband as defendant and she places the names in the appropriate blanks.

Court File No: 000000

The court file number is found on your divorce decree or support order

Dear John Doe,

The name of the person who pays your child support and/or spousal maintenance.

Must provide at least 20 days notice

Please be advised that a cost-of-living adjustment to the child support/spousal maintenance amount you pay will become effective on January 20, 20 10. The adjustment is more fully explained and consistent with the terms of Appendix A of the Order.

Whether adjustment is part of court issued order or included in the divorce decree. Delete if using Minnesota Statute 518A.75

The cost-of-living adjustment was set out in Appendix A of her order or else she would write the paragraph number creating the adjustment. If the adjustment is not mentioned, use Minnesota Statute 518A.75.

Prior to the effective date of the adjustment, you have the right to request a court hearing on whether the cost-of-living adjustment should take effect and obtain an ex parte stay of the imposition of the cost-of-living adjustment pending the outcome of the hearing. *Forms for you to do this are available from the court administrator's office.* The cost-of-living adjustment upon the child support/spousal maintenance obligation of \$ 600 per month ordered by the court will take effect, if you fail to schedule such a hearing and obtain an ex parte court order.

The support being currently being paid before the adjustment is added on

My calculations as to the amount of the adjustments are enclosed. By these computations, you should be paying \$ 632.80 per month for your child support/spousal maintenance obligation starting on January 20, 20 10.

The new support payment, including the adjustment. See step (7) on the COLA Form Worksheet.

Sincerely,

Must provide at least 20 days notice, same as step (6) above.

Jane Doe
Name

5000 80th Avenue
Street Address

Jane Doe
Signature

Somewhere, MN, 00000
City, State, Zip code

Including your address is important if the adjustment is contested. If you do not wish to provide your address, consider using a P.O. Box, collection services from a public authority, or using the "Safe at Home" program with the Secretary of State's office.

Letter of Notification

Date _____

To: Name _____

Address _____

Notice of Cost-of-living Adjustment In Re the Marriage of:

_____, Petitioner and

_____, Respondent

Court File No: _____

Dear _____,

Please be advised that a cost-of-living adjustment to the child support/spousal maintenance amount you pay will become effective on _____, 20____. The adjustment is more fully explained and consistent with the terms of _____ of the _____.

Prior to the effective date of the adjustment, you have the right to file a notice of motion and motion, which must include a hearing date on whether the cost-of-living adjustment should take effect. *Forms for you to do this are available from the court administrator's office or from the court public website: www.mncourts.gov.* The cost-of-living adjustment upon the child support/spousal maintenance obligation of \$_____ ordered by the court will take effect if you fail to schedule such a hearing and serve and file the notice of motion and supporting affidavit.

My calculations as to the amount of the adjustments are enclosed. By these computations, you should be paying \$ per _____ for your child support/spousal maintenance obligation starting on _____, 20____.

Sincerely,

Name

Signature

Street Address

City, State, Zip code

Example Affidavit of Service by Mail

State of Minnesota)

County of Ramsey)
(County where filing cost-of-living adjustment)

This is the county where the divorce decree or support order issued

Found on your support order or divorce decree

Court File No. 000000

Jane Doe of the City of Walker County of Cass
(your name) (your current residence)

Remember to give at least 20 days notice

in the State of Minnesota, being duly sworn says that on the 31 day of January
(day) (month)

20 10 she served the Cost-of-living Adjustment Form and Letter of Notification on
(year)

John Doe by mailing to him/her a copy of it,
(name of child support/spousal maintenance payer)

enclosed in an envelope, postage prepaid, and by depositing it in the post office at

Walker directed to him at the last known address, at
(city where mailed)

10000 1st Street

Somewhere, Minnesota, 00000

(address of child support /spousal maintenance payer)

The city you mailed your Notification and Form from

DO NOT SIGN until you are with a Notary Public.

(sign your name here in front of the Notary Public)

Subscribed and sworn before me

this _____ day of _____, 20____.
(day) (month) (year)

All of this should be left blank for the Notary Public to fill out.

Notary Public

My Commission Expires: _____

Affidavit of Service by Mail

State of Minnesota)

County of _____)

(County where filing cost-of-living adjustment)

Court File No. _____

_____ of the City of _____ County of _____

(your name)

(your current residence)

in the State of _____, being duly sworn says that on the _____ day of _____

(day)

(month)

20_____ he/she served the Cost-of-living Adjustment Form and Letter of Notification on

(year)

_____ by mailing to him/her a copy of it,

(name of child support/spousal maintenance payer)

enclosed in an envelope, postage prepaid, and by depositing it in the post office at

_____ directed to him/her at the last known address, at

(city where mailed)

_____ *(address of child support /spousal maintenance payer)*

_____ *(sign your name here in front of the Notary Public)*

Subscribed and sworn before me

this _____ day of _____, 20 _____.

(day)

(month)

(year)

Notary Public

My Commission Expires: _____

**Appendix A:
Further Information on Adjustments**

What is a modification of child support?

By law, child support must be set according to Minnesota's child support guidelines. The Minnesota Guidelines Calculator is available at: www.calculator.dhs.state.mn.us/calculator. These guidelines consider the incomes of both parents and allocate a specific dollar amount for basic support based on the parent's respective incomes and the number of children. The guidelines also allocate the cost of medical insurance, the division of unreimbursed or uninsured medical and dental expense and allocates work-related and school-related child care costs. If you feel the amount of child support is not appropriate based on the guidelines, you might consider a legal *modification* of your child support award. The *modification* process – which will involve a review of the incomes of the obligor (the person who is paying) and the obligee (the person who receives payment) – is entirely different from the *cost-of-living adjustment* process.

Criteria for changing court orders

(The ability to request changing court orders for the following circumstances)

The court may change a child support order if:

- There is a substantial increase or decrease in either parent's gross income
- There is a substantial increase or decrease in the needs of a party or the child
- One of the parties or the child receives public assistance
- There is a change in the cost of living for either parent
- There are extraordinary medical expenses for the child
- There is an additional or substantial increase or decrease in existing work-related or education-related child care expenses
- The child is emancipated

Change of Circumstances

(The courts will review whether your request meets the following criteria)

- A. The court will consider that there has been a substantial change of circumstances and presume any of the criteria for changing court orders makes terms of the existing order unreasonable and unfair if:
 - Based on the calculation, changing the current order would result in a child support amount that is at least 20 percent and at least \$75 higher or lower than the current order. If the current support order is less than \$75, it results in a calculated court order that is at least 20% per month higher or lower.
 - The medical support provisions of the order are not enforceable, coverage is now available or is not now available, or the cost of the coverage has changed substantially
 - The health coverage ordered is not available to the child for whom the order is established
 - The current order is for a percentage of income, not a fixed dollar amount.

- The gross income of a party has decreased by at least 20 percent through no fault or choice of the party.

B. The court may also change a support order if custody has changed.

To pursue a modification of child support, ask the Court Administrator’s office in your county for a form to request a modification in child support or you can get it at www.mncourts.gov, click on “forms”. For more information about contacting the Court Administrator’s office in your county, please see the “Modification Forms” entry in “Sources of Information” on page 29. If the county is providing child support collection services, either parent may request in writing that the child support office review their support order to see if the requirements for a modification are met. If so, the county may request a modification in child support in the expedited child support hearing process. Not all counties process modifications.

**Appendix B:
Supporting Materials & Resources**

Sources of Information

Child Support Enforcement Office

The contact information for each county's Child Support Office is listed on the Minnesota Department of Human Services Website at <http://www.dhs.state.mn.us>. On the main page, you will see a "Quick Links" column on the right side. Click on the link titled "Child Support." This will navigate you to the Child Support page. After you have navigated to this page, you will see a "Related Pages" column on the right side. Click on the link titled "County child support phone numbers and addresses." This will direct you to a page where you will be able to select the county with which your child support/spousal maintenance was issued. Selecting this county will provide you with the contact information for that particular county's Child Support Office. You may also find out more information about a county's Child Support Office by calling Minnesota Department of Health and Human Services, Child Support Division at:
(651) 431 – 4400.

Consumer Price Index (CPI)

For a recorded message of the CPIs for the most recent month/semi-annual period, call (612) 725-3580.

- The numbers in the OESW CPI table use the year 1967 as the base.
- Monthly CPI-U numbers become available around the middle of each month for the previous month.
- NA means the number is not available and is not calculated for that month.
- The MPLS/ST. PAUL CPI numbers are only available semi-annually. The number listed in July is for the first half of the year. The number listed in January is for the second half of the previous year.
- CPI figures using 1982/84 as the base are available from the Minnesota Department of Employment and Economic Development (DEED) by calling (651) 259-7384 or 1-888-234-1114.

CPI data are also available on the Internet from the [Bureau of Labor Statistics](#):

For the CPI-U: <http://146.142.4.24/cgi-bin/surveymost?cu>

- select U.S. All Items, 1967=100 (or U.S. All Items, 1982-84=100);
- below that listing select the years;
- click on retrieve data

For the Mpls/StP CPI-U using the 1967 base: <http://146.142.4.24/cgi-bin/dsrv?cu>

- select not seasonally adjusted, then next form;
- select A211 - Minneapolis-St. Paul, Min.-Wis., then next form;
- select alternate base, then next form;
- select all items, then next form;
- select semi-annual, then next form;
- select the years, then retrieve data

Court Administrator's Office

Minnesota is divided into a number of district courts. Most of these districts consist of more than one county. To determine what Court Administrator's Office that you need to contact, you must first identify which district your county is a part of. To determine a county's judicial district, visit the Minnesota court's website at <http://www.mncourts.gov>. There will be a banner at the top of the page with various different tools. There is a tool within this banner that says "Find Your Court." Select the name of the county where your child support/spousal maintenance was issued and click "GO." This will direct you to the page for the correct judicial district for the county you selected. The judicial district pages will give contact information for their Court Administrator's Office. You may also find out more information about a county's Court Administrator's Office by calling the Minnesota Judicial Center's general information number at: (651) 297 – 7587.

Legal Services

The [Child Support Enforcement Office \(CSEO\)](#) in each county can help establish paternity, get an order for child support, enforce an existing order, collect payments, and more. Child support offices also take the steps to obtain cost-of-living adjustments in the child support orders they enforce. Please see the "Child Support Enforcement Office" listing on page 28.

If your child support case is complicated, you may need to hire a private attorney experienced in family law. You may contact the following county bar associations for referral to an attorney: Dakota county: 952-431-3200; Hennepin county: 612-752-6666; Ramsey county and metro area: 651-224-1775. For all other Minnesota counties, access the www.mnfindalawyer.com website.

If you cannot afford an attorney, you may be able to locate low-cost legal services through area Legal Aid Societies or legal advice clinics. However, legal aid programs have income restrictions and limit the types of cases they accept. For answers to legal questions, contact information for legal aid offices, links to courthouses and local community organizations see the www.lawhelpmn.org website.

[Tubman](#) offers legal services through law clinics, legal information sessions, and provides referrals to legal agencies, legal programs, and private lawyers. Tubman's telephone number is 612-871-0118 and their website for legal resources is www.tubman.org – click on "Legal Services" from the home page.

Modification Forms

The Minnesota courts website has forms to modify child support and to contest a proposed cost-of-living adjustment. Go to www.mncourts.gov and click on "forms". The court administrator's office may have modification forms available. All courthouses have terminals available for use by the public to access court forms. If the county is providing child support services, either parent may request in writing that the child support office review their support order to see if the requirements for a modification are met. If so, the county may request a modification in child support in the expedited child support hearing process.

Notary Public

A bank in your area or the court office may have a Notary Public to help you sign the Affidavit of Service in this packet. Additional listings may be available in the yellow pages under "Notaries Public."

Cost-of-Living Adjustments in Maintenance or Child Support Orders--Minnesota's Law

[MN STAT. 518A.75](#)

518A.75 COST-OF-LIVING ADJUSTMENTS IN MAINTENANCE OR CHILD SUPPORT ORDER.

Subdivision 1.Requirement.

(a) An order establishing, modifying, or enforcing maintenance or child support shall provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. An order that provides for a cost-of-living adjustment shall specify the cost-of-living index to be applied and the date on which the cost-of-living adjustment shall become effective. The court may use the Consumer Price Index for all urban consumers, Minneapolis-St. Paul (CPI-U), the Consumer Price Index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the Department of Labor which it specifically finds is more appropriate. Cost-of-living increases under this section shall be compounded. The court may also increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

(b) The adjustment becomes effective on the first of May of the year in which it is made, for cases in which payment is made to the public authority. For cases in which payment is not made to the public authority, application for an adjustment may be made in any month but no application for an adjustment may be made sooner than two years after the date of the dissolution decree. A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for maintenance or child support has a provision such as a step increase that has the effect of a cost-of-living clause. The court may waive a cost-of-living adjustment in a maintenance order if the parties so agree in writing. The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14. Notice of this statute must comply with section [518.68, subdivision 2.](#)

Subd. 2.Notice.

No adjustment under this section may be made unless the order provides for it and the public authority or the obligee, if the obligee is requesting the cost-of-living adjustment, sends notice of the intended adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice shall inform the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment.

Subd. 2a.Procedures for contesting adjustment.

(a) To contest cost-of-living adjustments initiated by the public authority or an obligee who has applied for or is receiving child support and maintenance collection services from the public authority, other than income withholding only services, the obligor, before the effective date of the adjustment, must:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the public authority and the obligee.

The hearing shall take place in the expedited child support process as governed by section [484.702.](#)

(b) To contest cost-of-living adjustments initiated by an obligee who is not receiving child support and maintenance collection services from the public authority, or for an obligee who receives income withholding only services from the public authority, the obligor must, before the effective date of the adjustment:

- (1) file a motion contesting the cost-of-living adjustment with the court administrator; and
- (2) serve the motion by first-class mail on the obligee.

The hearing shall take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the cost-of-living adjustment shall be stayed pending further order of the court.

(d) The court administrator shall make available pro se motion forms for contesting a cost-of-living adjustment under this subdivision.

Subd. 3. Result of hearing.

If, at a hearing pursuant to this section, the obligor establishes an insufficient cost of living or other increase in income that prevents fulfillment of the adjusted maintenance or basic support obligation, the court or child support magistrate may direct that all or part of the adjustment not take effect. If, at the hearing, the obligor does not establish this insufficient increase in income, the adjustment shall take effect as of the date it would have become effective had no hearing been requested.

History:

[1983 c 308 s 24](#); [1984 c 654 art 5 s 58](#); [1988 c 668 s 25](#); [1991 c 266 s 8,9](#); [1993 c 322 s 15](#); [1997 c 187 art 2 s 14](#); [1997 c 245 art 1 s 30](#); [1999 c 196 art 2 s 21](#); [1Sp2001 c 9 art 12 s 15-18](#); [2002 c 379 art 1 s 113](#); [2005 c 164 s 29](#); [1Sp2005 c 7 s 28](#); [2007 c 118 s 19](#)

Copyright © 2008 by the Office of the Revisor of Statutes, State of Minnesota. All rights reserved.

April 2010

Contributors: Jacqueline Duchschere, James Leighton

Reviewer: Craig Lindeke, Office of the Revisor, Minnesota State Legislature