

## Quick Guide to the Marine Corps Dependent Support Regulation

The Marine Corps Dependent Support Order (chapter 9, MCO 5800.16A, Legal Services Administration Manual) provides that all Marines must provide adequate financial support to their dependents. Failure to do so subjects the Marine to adverse administrative action and even criminal sanction. This quick guide is designed to assist the Marine and his superiors in determining the Marine's basic support obligation.

In accordance with the Legal Services Administration Manual (LSAM)) all Marines must provide financial support to their dependents. But how much? If there is a court order for support, the Marine is obligated to provide the amount designated in the court order. If there is a separation agreement, the Marine is required to comply with the dependent support provisions of the separation agreement. ***If and only if there is neither a court order nor a separation agreement, and a complaint for nonsupport has been made to the command, then the support amount is determined by using the interim support required under the Order.***

Interim Support. The Order contains a chart to determine the amount of "interim" support (support in the absence of court order or agreement). The chart is reproduced below. In no event can the interim support required by the Order exceed one third of the Marine's gross monthly pay (pay and allowances prior to taxes and deductions). The obligation to provide interim support extends to the Marine's spouse, minor (under 18 years of age) biological children, or minor adopted children. The support requirement does not extend to un-adopted step-children or to an active duty spouse.

<b>Total # of dependents entitled to support</b>	<b>Share of monthly BAH / OHA per requesting family member</b>
<b>1</b>	<b>1/2</b>
<b>2</b>	<b>1/3</b>
<b>3</b>	<b>1/4</b>
<b>4</b>	<b>1/5</b>
<b>5</b>	<b>1/6</b>
<b>6 or more</b>	<b>1/7 etc.</b>

Example 1: Sgt H is married to W and has one child of the marriage (child X). Sgt H lives off Base in Jacksonville, NC and has a gross monthly pay of \$3,600, of which \$900 is BAH. (BAH and pay amounts in this example are used only for illustration and ease of calculation and may not reflect an E-5's actual pay and BAH). There is no applicable court order or separation agreement. Sgt H must pay monthly support in the amount of 1/3 BAH (\$300) per dependent, for a total of \$600 per month. This amount does not exceed 1 / 3 of his \$3,600 gross monthly pay and therefore need not be reduced for that reason.

Example 2: As in the previous example, Sgt H is married to wife W and has a child of his current marriage, child X. He lives off base and receives a monthly gross pay of \$3,600, of which \$900 is BAH. However, in this example, he also has a child from a prior marriage, child Y, and the divorce decree in that prior case ordered him to pay support for child Y. Thus, there are three family members entitled to support (current wife W, child of current marriage X, and child of prior marriage Y). W makes a nonsupport complaint on behalf of herself and child X. Each of the dependents requesting support is entitled to 1 / 4 of the BAH (\$225) for a total of \$450 per month.

Example 3: Sgt H is married to W, an active duty corporal of the Marine Corps. The parties have one child, X who resides with Cpl W. Sgt H also has one child of a prior marriage, to whom he is

obligated to pay support. Cpl W makes a complaint for non-support on behalf of herself and child X. In this scenario, there are two dependents entitled to support, the children of Sgt H's prior and current marriages. There is no obligation to provide support to an active duty spouse. Sgt H is obligated to pay 1/3 of his BAH (\$300) to Cpl W, the custodial parent, for the support of the one child of their marriage.

**Reduction of Interim Support Amounts.** The Marine can request that the Commanding Officer reduce the support obligation. It is up to the Marine to come forward with sufficient information and documents to establish a basis for reduction of the interim support requirement. The Commanding Officer may, but is not required to, reduce the interim support obligation as provided below:

*-Spouse's Income Exceeds Marine's Income.* The CO may reduce or eliminate the interim spousal support requirement if the gross income of the spouse requesting support exceeds the gross military pay of the Marine. This basis may relieve the Marine from providing support to a spouse, but does not relieve the Marine from providing support to his minor children.

*-Support for One Year.* The CO may reduce or eliminate the interim spousal support requirement where the parties have been separated at least one year, the marine has complied with the spousal support requirement during that period, and the Marine has not attempted to evade service or process, nor taken any action (except delay pursuant to the SCRA) to prevent a court from acting in the case. This basis may relieve the Marine from providing support to a spouse, but does not relieve the Marine from providing support to his minor children.

*-Spouse Abuse.* The CO may reduce or eliminate the interim spousal support requirement where the Marine is the victim of a substantiated instance of physical abuse of a spouse. This basis may relieve the Marine from providing support to a spouse, but does not relieve the Marine from providing support to his minor children.

*- Payment of Regular and Recurring Obligations of the Family Member Requesting Support.* The CO may reduce or eliminate the interim support requirement when the Marine is paying debts of the family members requesting support "of sufficient magnitude and duration as to justify a reduction or elimination of support." Such debts should be those of the family members and not the Marine's own debt. Example: Sgt H breaks up with his spouse and now lives off base with a friend. Sgt H's wife and children reside in government family housing and, as a consequence, Sgt H forfeits his entire BAH. Sgt H argues that he lost his BAH to support the government housing of his dependents and that the CO should therefore reduce or eliminate his interim support requirement. The CO has the discretion to grant or deny such a request.

*-Fundamental Fairness.* The next senior commander in the chain of command may reduce or eliminate the interim support requirement where releasing the Marine from such obligation "is a matter of fundamental fairness given the totality of the circumstances." The term "fundamental fairness" is not further defined by the Order; however, the CO must consult the Staff Judge Advocate prior to making such a determination.

This short primer on the USMC support regulation answers the most common questions concerning dependent support. The Legal Administration Manual can be found on line in the Marine Corps Publications Electronic Library:

<https://www.marines.mil/News/Publications/MCPEL/Custompubstatus/3000/>