

Family Differentiated Case Management Plan

July 1, 2018 (Revised)



Circuit Court for Worcester County, Maryland

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Family Law Differentiated Case Management Plan

This Family DCM Plan is established in accordance with Md. Rule 16-302(b) which requires the County Administrative Judge to develop and, upon approval by the Chief Judge of the Maryland Court of Appeals, implement and monitor a case management plan for the prompt and efficient scheduling and disposition of actions in the Circuit Court.

Statement of Purpose

It is the purpose of this DCM Plan to provide an effective case management system which will assure:

1. Equal treatment of all litigants by the court;
2. Timely disposition consistent with the circumstances of the individual case;
3. Enhancement of the quality of the litigation process; and
4. Public confidence in the court as an institution.

Consistent with the case time standards adopted by the Judicial Council, Constitutional requirements, and applicable Maryland Rules, it is the goal of this Plan to ensure that 98% of family cases, with the exception of limited divorce cases, be concluded within 12 months (365 days) of the filing date; and that 98% of limited divorce cases be concluded within 24 months (730 days) of the filing date. A concluded disposition is considered to be judgment or dismissal. In order to achieve this goal, the Circuit Court is committed to resolving different categories of family cases, referred to as case subtypes, within a regular and predictable time frame warranted by the needs of those cases. For simpler cases, the warranted time frame may be shorter than 12 months.

Pursuant to Maryland Rules 16-202, 16-204, 2-504.1, and 17-100-108, the Family Law DCM Plan outlines policies and procedures for the management of family law cases at the Circuit Court for Worcester County. This includes the following types of cases:

- Alimony
- Annulment
- Divorce
- Custody

- Visitation
- Child support
- Post-judgment modification of custody/visitation
- Post-judgment modification of alimony
- Post-judgment modification of child support

The DCM Plan below is designed with the intent to intervene early in contested domestic cases such that parties are given multiple opportunities to avoid litigation. In addition, families are assessed for non-legal problems such as substance abuse, domestic violence, emotional illnesses, and referred to the appropriate resources for treatment. Finally, divorcing and separating parents are given skills to mitigate the effects of the family dissolution on their children. In sum, the goal and purpose of case management is to lessen the burden on the family docket by resolving cases via alternative means and avoiding future litigation by referring families to supportive community services.

Family Law Case Management Personnel

The following personnel of the Circuit Court for Worcester County implement the policies and procedures outlined in this Plan:

- **Administrative Judge.** The administrative judge supervises all aspects of family law case management, and is ultimately responsible for overseeing the implementation of the DCM Plan.

Both the administrative judge and the Family Court judge review and rule on all Motions for Waiver of Prepayment of Costs, Scheduling Orders, Orders for alternative dispute resolution (i.e., mediation), and any other preliminary Orders resulting from a Scheduling Conference when held before the magistrate. Both judges and the magistrate rule on all motions for pendente lite relief, continuances/postponements, requests for hearings, and all requests for emergency or ex parte relief.

Family Division Coordinator. The family division coordinator is responsible for the overall program development and implementation of the DCM Plan. The coordinator is responsible for directing family law cases into appropriate DCM tracks. All cases covered by this Plan are flagged by the assignment commissioner and referred to the coordinator as soon as they are at issue, e.g., once responsive pleadings are filed. The civil assignment commissioner sets the case for a scheduling conference before the magistrate and the coordinator completes a case management sheet and sends out appropriate orders, (Pre-Scheduling Conference), for co-parenting education, and mediation. The coordinator is also responsible for coordinating all alternative dispute resolution programs, supervising the Pro Se Family Law Project, and is responsible for the fiscal management of the family services division budget. The coordinator reports to the administrative judge.

Other offices and individuals at the Circuit Court for Worcester County are also involved in the implementation of the DCM Plan. These include:

- **Assignment Commissioner.** The assignment office schedules all proceedings before a judge or magistrate of the Circuit Court. These include: Scheduling Conferences, Pendente Lite Hearings, Emergency Hearings, Motions Hearings, and Merits Hearings.
- **Magistrate.** Scheduling Conferences, Pendente Lite Hearings, Merits Hearings, and modifications may be set before a magistrate. Proceedings before a magistrate are always subject to the provisions in the Maryland Rules governing the use of magistrates, Md. Rules 2-541, 9-208 and 11-111.

Differentiated Case Management (DCM) Tracks

Pursuant to Maryland Rule 16-302(b), the Court will work toward the establishment of DCM Tracks. These tracks will be used to differentiate standard and expedited family law

matters as a way of establishing benchmarks and scheduling goals. Three “tracks” will be commonly used, they are:

Expedited Track

The expedited track includes the following types of cases:

- Case is uncontested or issues are limited or simple and
- Cases with custody issues, unless abuse is alleged

Cases assigned to this track are scheduled in a way that helps the parties reach resolution within 90 days of when they are at issue.

Standard Track

The standard track includes the types of cases for which the issues are more involved or cases where abuse is alleged. These cases are scheduled in a way to facilitate a resolution within 180 days of when they are at issue.

Complex Track

The complex track includes the types of cases for which issues are complex enough to require extended discovery and/or more extensive investigations or evaluations. At the Court’s discretion, a case may be assigned to the complex track if the issues presented require special attention or additional time.

Case Events

The following are the major events for family cases.

Case Initiation

The following steps are required to file a family case:

- (a) **File a complaint** with the Court (Md. Rule 2-111) at the Circuit Court Clerk’s Office. Most family cases are required to attach a completed [Domestic Case Information Form](#) (CC-DCM-002), with the complaint. Family case subtypes exempt from filing the Domestic Case Information Form include the following:
 - Contempt for failure to pay child support, when filed by a government agency;

- Domestic violence relief under Code, Family Law Article, §§ 4-501 through 4-516, including Md. Rule 3-326(c) transfer;
- Guardianship, other than action to terminate parental rights (Md. Rules 10-201 through 10-305);
- Paternity, when filed by government agency (Code, Family Law Article, §§ 5-1001 through 5-1048); and
- Post-conviction (Md. Rules 4-401 through 4-408).

(b) **Pay filing fee.** Refer to the [Summary of Charges, Costs, and Fees of the Clerks of the Circuit Court](#) for fees. Filing fees may be waived by the Court, based on the following conditions:

- ✓ Filing by the plaintiff of the [Request for Waiver of Prepaid Costs](#) (CC-DC-089);
- ✓ Representation by a civil legal aid lawyer; and/or
- ✓ Other determination by the Court.

If the Court does not grant the request to waive prepaid costs, the plaintiff has 10 days to pay the filing and other required fees (prepaid costs).

(c) **Notify the other party (defendant).** The plaintiff is required to attempt to notify the defendant that a complaint (lawsuit) has been filed against the defendant. The Clerk will issue a summons to officially notify the defendant that a suit has been filed (Md. Rule 2-112). The summons has a 60-day time limit to serve the defendant. After the time limit has expired, the summons is no longer valid, unless renewed by motion of the plaintiff. The following documents must be delivered to the defendant: copy of original complaint and summons. There are three legal ways to deliver these documents to the defendant: 1) Certified Mail, 2) Private Process; and 3) Sheriff.

(d) **Proof of Service.** The Court requires that the plaintiff fill out an [Affidavit of Service](#) (CC-DR-55 or CC-DR-56) form to prove that the other side has been notified, or served. If the Court does not receive proof of service within the time allotted for the defendant to file an Answer, the plaintiff may not be able to present his or her case on the trial date.

(e) **Lack of Jurisdiction.** Between the filing of the complaint and service, the Court may dismiss cases for lack of jurisdiction, and following service for lack of prosecution, or these cases are withdrawn. If the defendant has not been served after 120 days, the Clerk's Office sends notices

to the parties that they have 30 days to file a motion to vacate or defer the order of dismissal, or the case will be dismissed without prejudice. After 30 days the Clerk's Office reviews the case, and it is presented to a judge who signs an order dismissing the case. An entry is made that the case is dismissed for lack of jurisdiction.

Answer

The defendant must file an affirmative Answer, typically within 30, 60 or 90 days after he or she has received a summons, for most Circuit Court civil case subtypes (Md. Rule 2-321).¹ These cases are considered by the court to be at issue, and the case shall proceed (Md. Rule 2-323). In addition, if the defendant seeks to modify any information on the original case information report, or expects to file a counterclaim, cross-claim, or third-party claim, he or she is required to file with the Answer a defendant's Domestic Case Information report.

Status Conferences

Status Conferences will be set on a family case for which service and answer have not been completed within the prescribed time limits. The assignment commissioner and the case manager monitors for issues such as: lack of service on defendant, service but no answer by defendant in the prescribed time, and/or plaintiff has failed to file a request for an order of default. These cases languish while time standards are running. When these cases are identified by the assignment commissioner, they are forwarded to the family division coordinator for review to determine whether the case should be set. When it is determined that a status conference needs to be set, the assignment commissioner sets it in on the magistrate's docket within the next 30 days.

Lack of Prosecution. Following service, the Court actively dismisses cases for lack of prosecution after one year under Md. Rule 2-507. The majority of dismissals occur after the answers have been filed. See *Answer* above. Following service, if an answer has not been filed or, following answer, no other action has been taken on the case after one year, the Clerk's Office sends notices to the parties that they have 30 days to file a motion to vacate or defer the order of dismissal, or the case will be dismissed without prejudice. After 30 days, the Clerk's Office reviews and dismisses the case. A motion docket entry is made that the case is dismissed without prejudice for lack of prosecution.

¹ Exceptions include defendants who live outside the State of Maryland, resident agents, officers or agencies of the U.S. government, among others. See Md. Rule 2-321.

Pretrial Orders and Mediation

Once a case is at issue (i.e., once responsive pleadings have been filed for all outstanding original pleadings – complaints, counter-complaints, petitions), the assignment office shall set the case in for a scheduling conference within 30 – 45 days of when the case is at issue.

The assignment commissioner forwards those cases to the family support services coordinator for review. All litigants on domestic cases involving children will be ordered to attend the co-parenting education seminar. If there is a dispute as to custody/visitation of the child/ren the parties will be ordered to custody/visitation mediation. If there is a dispute as to property/alimony, the parties will be ordered to property/alimony mediation.

Information Letter. Provides parents with some general information about the Co-Parenting Education Seminars and the custody/visitation mediation process.

Parenting Seminars. In divorce actions or other actions between two natural parents where custody or visitation is at issue, the Court will order the parties to attend a 6-hour parenting seminar. This seminar consists of two, three-hour sessions and is taught by the Worcester County Health Department Office of Prevention.

Custody/Visitation Mediation. Parties involved in contested custody matters where there are no allegations of abuse will be ordered to attend mediation. The goal in scheduling mediation will be to ensure that the parties attend the Co-Parenting Seminar and both mediation sessions within 60 days after the Scheduling Conference.

At the time mediation is ordered, the parties will be mailed a copy of the mediation order, and the Information letter.

Pro Se Family Mediation. Pro se parties involved in contested custody matters, where there are no allegations of abuse, will be ordered to participate in Pro Se Family Mediation. Pro se mediations are held on the second Wednesday and Friday of each month at the court house and are scheduled at 9:00 and 11:00 a.m. and 1:30 p.m. Members of the Court's Volunteer Attorney Settlement Panel, who meet the requirement of Md. Rule 17-100, conduct the pro se mediations. If the case does not settle at mediation, it proceeds to a Settlement Conference and then a Merits Trial as a last resort.

Property Alternative Dispute Resolution (ADR). Parties involved in contested property/alimony issues and whom counsel represents will be referred to a court-appointed mediator to resolve those issues. The parties will be ordered to meet with the mediator for two-hour sessions with the costs to be divided between the parties. Parties will set up their own appointments with the property ADR

mediator. If parties and/or counsel wish to object, they can do so at the Scheduling Conference before the magistrate.

Scheduling Conferences

Parties and counsel receive an “Order for Scheduling Conference.” Both parties will be required to be present with counsel unless otherwise excused by the Court. Postponements will be granted for Scheduling Conferences, but the conference shall occur within 30 - 45 days of the filing of the answer unless the parties object in writing. (*Md. Rule 2-504.1 provides that the Scheduling Conference shall not be earlier than 30 days after the order scheduling it, unless the parties agree otherwise.*)

Scheduling conferences are held before a magistrate. Scheduling Conferences are set on the Court’s calendar two days per month, at 15-minute intervals on those days. Each conference takes approximately 15 minutes.

In uncontested cases, the parties are advised to bring their witness to the Scheduling Conference so that they may take testimony before the magistrate. The magistrate puts the brief testimony on the record and submits the Order and recommendation to the judge for divorce. In complex cases, counsel and parties are given the opportunity to establish discovery deadlines and make additional requests for pretrial services that may be appropriate.

At the Scheduling Conference, the magistrate will attempt to assist the parties in reaching an agreement on all contested matters. If an agreement can be reached, the magistrate will place the agreement on the record and issue a final recommendation and Order in the case. If it is a divorce matter and the necessary witnesses are present, brief testimony may be taken on the grounds for divorce and a report and recommendation issued.

If it is clear that there remain contested issues, the magistrate will identify those issues and complete a **Scheduling Order** setting in discovery and filing deadlines and scheduling the next appropriate proceeding including an ultimate merits trial date.

The magistrate will use his/her discretion to determine if the case is unlikely to be resolved in mediation, or if mediation appears inappropriate, and no investigations or evaluations are necessary. If these conditions are present, the magistrate may order that the case proceed immediately to trial.

At the Scheduling Conference, if not already ordered pre-conference, the magistrate will also discuss with counsel or the parties whether other preliminary orders might be appropriate in the case. Counsel are requested to file any such preliminary motions (e.g., motions for child counsel, for a home

study investigation, for psychological evaluation, etc.), prior to the Scheduling Conference so that both sides have an opportunity to respond to the request in writing prior to the Scheduling Conference.

If one party requests a preliminary order and the other party objects, the magistrate will hear brief argument on the issue and render a decision. Preliminary orders may include the following:

- Order to attend parenting seminar (*If not already ordered pre-conference*)
- Order for custody/visitation mediation (*If not already ordered pre-conference*)
- Other alternative dispute resolution orders
- Orders appointing counsel for a minor child or party
- Order for home study/child custody investigation
- Order for psychological and/or psychiatric evaluation(s)
- Order for pendente lite hearing
- Any other investigations or orders the magistrate feels may be necessary to expedite the case

Selected preliminary orders and their application are further described below.

Appointment of Counsel for Minor Children. The magistrate can also appoint counsel for a minor child at the time of the Scheduling Conference. Parties should be prepared to advise the Court as to whether this will be necessary and why.

Home Study/Child Custody Investigations. The magistrate may order an investigation, if appropriate, at the time of the Scheduling Conference.

Drug Testing/Screening. The magistrate may order alcohol and/or substance abuse screenings and assessments of either party or a minor child at the time of the Scheduling Conference.

Psychological/Psychiatric Evaluations. At the Scheduling Conference, the magistrate may order a psychological and/or psychiatric evaluation of either party or a minor child in the case. The magistrate will have available a list of appropriate psychologists/psychiatrists who can conduct such evaluations, or she can order the examination be done by a professional requested by one or both of the parties.

Paternity Testing. If the issue of paternity is raised in either the pleadings, or at the time of the Scheduling Conference, the magistrate may order the parties to participate in and cooperate with paternity testing. Paternity testing is usually performed after an evidentiary hearing unless both parties agree to it.

Scheduling Orders

A single, uniform **Scheduling Order** shall be used for all family law cases. The order shall indicate the dates for any Settlement Conferences and/or mediations and other deadlines for standard vs. expedited cases. During the Scheduling Conference, the magistrate will ask counsel how long they will need for discovery. Discovery deadlines will be accordingly set and subsequent conferences/hearings will be correspondingly set.

Pendente Lite Hearings

If the parties are unable to reach an agreement at the time of the Scheduling Conference on pendente lite issues, the Court may schedule a pendente lite hearing and issue an Order to that effect. That Order may be included as a part of the Scheduling Order and a separate Order need not be issued. The magistrate may exercise discretion in setting a time limit to the pendente lite hearing, if appropriate.

Requests for Interpreters

If any party becomes aware of the need for an interpreter for any party or witness, the party shall promptly notify the Court through the Clerk's Office by using the Request for Interpreter form, at least 30 days prior to the court date. Family Services may assist a litigant in obtaining an interpreter for family matters where appropriate. A delay in notifying the Court of the need for an interpreter may result in the inability to handle a case on the scheduled date. Requests for interpreters must be specific as to the language and, if appropriate, the particular dialect that may be needed. The request must also specify for whom the interpreter is needed.

The party requesting an interpreter shall remain responsible for confirming that an interpreter has been ordered and shall notify the Court immediately if the need for the interpreter changes. The interpreter will submit an invoice for approval. Once signed by the Court Administrator, the Assignment Office is responsible for submitting the invoice to the Administrative Office of the Courts.

If a request for interpreter is not cancelled at least 48 hours in advance of the trial or hearing, the Court will be billed for the interpreter's services. If the Court is billed for an interpreter needlessly as a result of counsel's failure to advise the Court that the interpreter will not be needed, or because counsel or a litigant does not appear in court in a timely fashion, the Court may assess the interpreter costs against the party or counsel causing the unnecessary expense.

Requests for Investigations and Evaluations

Motions for psychological/psychiatric evaluation, home study/child custody investigations or other preliminary orders filed after the Scheduling Conference must be accompanied by substantial new information or developments which necessitate the requested relief.

Request for Emergency Hearings

All requests for emergency hearings shall be forwarded to the family support services coordinator for review to determine if the request complies with the Court's policy. After review the file will be forwarded to the law clerk for presentation to the judge for ruling.

Settlement Conferences

Settlement Conferences will take place on the first Tuesday and Wednesday of each month. Three conferences will be scheduled on each day at 9:30, 10:30, and 11:30 a.m. A panel of experienced "volunteer attorneys" will facilitate the Settlement Conferences. The purpose of the conference is to attempt to settle the case and thereby avoid a trial. The settlement attorney will try to help the parties reach agreement on some or all of the issues in dispute. Cases that appear "ripe" for settlement will be set in for a Settlement Conference. These cases generally have simple issues and are motivated to avoid the emotional and financial costs of a trial.

If an agreement is reached it will be placed on the record that day before a judge or magistrate.

Final Merits Hearing/Trial

Trials, and all court events, are set on a date certain by Scheduling Order. At trial, both parties should be prepared to present any witnesses, evidence or exhibits to prove or defend against a claim. If the trial date is postponed for good cause, a new trial date will be rescheduled within 15 days on the calendar of the originally assigned trial Judge.

Final Order/Judgment

Types of judgments include: judgment and consent judgment. The final order/judgment is entered by the clerk following a trial, usually the same day. The Order of the Court is signed on the same form as the original complaint, although a detailed order may be attached. The date of the judgment is the date the clerk enters the judgment in the case management system (Md. Rule 2-601).

Family Support Services Programs

Custody/Visitation Mediation Services

Parties will be ordered to participate in custody/visitation mediation in all cases involving custody and/or visitation issues where no abuse (of either party or child) is alleged. Participation requires the following:

- Attendance at two separate 2-hour sessions with a private mediator appointed by the Court, if the parties are represented by counsel.
- Payment of a \$200.00 fee (per party) at the time of the initial session with the mediator.

The actual dates of mediation will not be ordered at the Scheduling Conference. Parties will instead be ordered to contact the mediator directly to schedule those sessions.

Scope of Mediation. The mediator will attempt to facilitate an agreement between the parties. If the parties are unable to reach an agreement, the mediator may request that the Court extend the mediation order to include more sessions. Pursuant to Md. Rule 9-205(c), the Court may order up to two additional mediation sessions. The parties may also voluntarily continue with further mediation at their mutual election. Any additional costs of mediation will be shared between the parties.

Pursuant to Md. Rule 9-205(c)(2), the parties may extend the scope of mediation beyond the issues of custody and visitation, only if both they and their attorneys agree to do so.

Mediated Agreements. When the parties have been able to reach an agreement on some or all issues, the mediator may prepare a written summary of the agreement and submits it to the parties and their attorneys. If the agreement is approved counsel would file the necessary paperwork with the court to conclude the case. The mediator is only required to submit to the court the Mediation Disposition Form. This form should be submitted within seven days of the final mediation session.

Fees. The fee for mediation is \$100.00 per person, per session. The full cost of two sessions is therefore \$400.00. Those costs are split by the parties. Each party must bring \$200.00 in full to the first mediation session.

Reduced Fees. Parties will be informed in writing in the mediation order that if they wish to be considered for a fee waiver or a reduced fee through Family Support Services they will be required to submit proof of income for consideration.

Co-Parenting Education Seminars

Parenting seminars are offered on a monthly basis by the Worcester County Health Department's Office of Prevention and the Center for Conflict Resolution in Salisbury. The seminar is a six-hour course broken into two three-hour sessions. The cost for the seminar is \$50.00 per person. Indigent parties will be informed in writing that if they wish to be considered for a fee waiver or a reduced fee through family support services, they will be required to submit proof of income and subsequently placed on a sliding fee scale.