

FAMILY LAW DIFFERENTIATED CASE MANAGEMENT PLAN

CIRCUIT COURT FOR WORCESTER COUNTY FAMILY SUPPORT SERVICES DIVISION

FAMILY LAW CASES

Pursuant to Maryland Rule 16-202, 16-204, 2-504.1, and 17-100-108, the Family Law Differentiated Case Management 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-judgement modification of custody/visitation
- ❖ Post-judgement modification of alimony
- ❖ Post-judgement modification of child support

The Differentiated Case Management Plan (DCM) 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 aggressive 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 Family Law Differentiated Case Management 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, 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 Family Law Case Management 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 Clerk and referred to the Coordinator as soon as they are at issue, e.g., once responsive pleadings are filed. The Assignment Clerk 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, including mediation and settlement conferencing, supervising the Self Represented Legal Clinic, and is responsible for the fiscal management of the Family Services Division budget. The Coordinator reports to the Administrative Judge.

❖ **Family Law Case Manager/Trust Clerk:** The Family Law Case Manager is responsible for assisting the Worcester County Family Division Coordinator and designated Family Court Judges and Magistrate with the coordination and implementation of all Court Ordered Services. The Family Law Case Manager works with litigants involved in contested cases to ensure that services are completed timely and has the primary responsibility of providing information and referral assistance to persons who present (in person and/or by telephone) to the Family Division requiring assistance. As Trust Clerk, this person is responsible for all aspects of case managing Guardianship cases including the annual reviews.

Other offices and individuals at the Circuit Court for Worcester County are also involved in the implementation of the Family Law Differentiated Case Management Plan. These include:

- ❖ **Assignment Clerk.** The Civil Assignment Office schedules all Family Law 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 (Rule 2-541).

CASE TRACKING AND SETTING OF SCHEDULING CONFERENCE

Once a case comes at issue, i.e., once responsive pleadings have been filed for all outstanding original pleadings (complaints, counter-complaints, petitions), the Civil Assignment Officer shall set the case in for a Scheduling Conference within 30 – 45 days of when the case is at issue. Parties and counsel receive an “Order for Scheduling Conference”. The Assignment Clerk forwards those cases to the Family Division Coordinator for review. All 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. 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.

- ❖ **Differentiated Case Management (DCM) Tracks.** Pursuant to Maryland Rule 16-202 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:** Case is uncontested, or issues are limited/simple. 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:** 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:** issues are complex enough to require extended discovery and/or more extensive investigations/evaluations. At the Court’s discretion, a case may be assigned to the “Complex Track” if the issues presented require special attention or the additional time.

SCHEDULING CONFERENCES

- ❖ **The Scheduling Conference.** Scheduling Conferences will be held before a Magistrate. Scheduling Conferences will be set in at 15-minute intervals, two days per month. 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 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*)

At the Scheduling Conference, if the case is uncontested, 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 her discretion to determine if the case is unlikely to be resolved in mediation, or if ADR appears inappropriate and no investigations or evaluations are necessary, the Magistrate may/will likely order that the case proceed immediately to trial.

- ❖ The Magistrate will also identify and order any preliminary orders (if not already ordered) required in the matter. Preliminary orders 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

Cases will be managed in a way to facilitate settlement through Mediation or the use of settlement conferences. In designing the Family Law Differentiated Case Management Plan, the Circuit Court for Worcester County is attempting to facilitate settlement as early on in the case as possible to spare the parties unnecessary expense and delay. If custody/visitation is at issue the parties will be directed to utilize the Judiciary's Parenting Plan Tool.

- ❖ **Discovery Deadlines.** During the Scheduling Conference, the Magistrate will ask counsel how long they will need for discovery. Discovery deadlines will be set accordingly, and subsequent conferences/hearings will be set correspondingly.

- ❖ **The Scheduling Order.** 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.

STATUS CONFERENCES:

- ❖ Status Conferences will be set when a new or re-opened domestic case (FM) has not come “at issue” within six months of the issuance of the writ. The assignment clerk monitors for issues of lack of service of plaintiff/defendant, service but no answer by plaintiff/defendant in the prescribed time and/or plaintiff/defendant 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 clerk sets it in on the Magistrate’s Docket within the next 30 days.

REQUESTS FOR EMERGENCY HEARINGS:

- ❖ All requests for Emergency Hearings shall be queued to the Family Support Services Coordinator for review to determine if the request complies with the court’s policy and to determine whether the issue, as presented, warrants an emergency hearing. After calendaring and review the FSS Coordinator will queue the task back to the Judge along with the Coordinator’s recommendation for ruling.

SETTLEMENT CONFERENCES:

- ❖ **The Settlement Conference.** 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, & 11:30. 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.

OTHER PRELIMINARY ORDERS

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.

- ❖ **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 given a copy of the Scheduling Order, mediation order, and the Information letter.

- ❖ **Information Letter:** Provides parents with some general information about the Co-Parenting Education Seminars and the custody/visitation mediation process.
- ❖ **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 of each month at the Court House and are scheduled at 9:00 and 11:00 a.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 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 a two-hour session 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.

- ❖ **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 will Order an investigation, if appropriate, at the time of the Scheduling Conference. Two resources will be utilized for this service, the Department of Social Services and Worcester County Youth and Family Counseling. If the case requires a more in-depth, child custody assessment/investigation, the case will be referred to Worcester County Youth and Family Counseling. The costs will be divided between the parties.
- ❖ **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 will order the parties to participate in and cooperate with paternity testing.
- ❖ **Pendente Lite Hearing.** 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 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.

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:
 - ❖ Attendance at two (2) separate 2-hour sessions with a private mediator appointed by the Court.
 - ❖ 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 prepares a written draft of the agreement and submits it to the parties and their attorneys. If the agreement is approved counsel would submit the agreement to the Court for filing. The Mediator is only required to submit to the court the “Mediator Report to the Court Form”. This form should be submitted within seven days of the final mediation session.
- ❖ **Costs.** The fee for mediation is \$100.00 per person, per session. The full cost of two (2) hour 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.
- ❖ **Co-Parenting Education Seminars.** Parenting Seminars are offered on an ongoing basis through the web based “Online Parenting Programs” platform. They are also offered “in person” on a bi- monthly basis by the Worcester County Health Department’s Office of Prevention. 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 both verbally and in writing that if they wish to be considered for a reduced fee through Family Support Services, they will be required to submit proof of income and subsequently placed on a sliding fee scale.

PROVISION FOR WAIVER OF FAMILY SERVICES FEES

Upon receipt of an Order by the Court for pre-trial services involving fees, either party to a case may file a “Motion for Waiver of Family Services Fees” along with the required proof of income and file it with the Clerk of the Court for consideration. The Clerk shall forward the Motion to the queue of the Family Division Coordinator for review. If a party meets the eligibility requirements, they may have their fees either reduced or waived in full. An Order either granting or denying the motion will go out.

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