

FAQ:

1. What happens when a complaint for support or a petition to modify support is filed?

Both parties will attend a support conference where a conference officer will collect information necessary to calculate a support obligation using the guidelines and rules set forth in the Pennsylvania Rules of Civil Procedure. The conference officer will then recommend a support order.

2. What can either party do if they want to appeal the conference officer's recommendation?

Within 20 days of the recommended order either party can request a de novo hearing. De novo is a Latin phrase meaning "of new," so a de novo hearing will address the same complaint or petition as if the initial conference did not occur. In Cumberland County de novo hearings are held in front of a support master.

3. How is a de novo hearing different from a conference?

The primary distinction is that a de novo hearing is a record hearing. This means all testimony will be under oath and a complete record of the proceeding will be generated so that, if necessary, a full transcript can be created. Also, as mentioned above, a de novo hearing is a completely new proceeding so any documents provided at a previous conference must be presented again to the support master. The support master will not be able to consider documents not available at the time of the hearing.

After the de novo hearing the support master will generate a written report and recommendation within 20 days and a judge will sign a new order based on that recommendation.

4. What should I bring with me to a de novo hearing?

The scheduling order will direct you to bring your most recent federal tax return as filed, W-2 statements, six months of paystubs, verification of child care expenses, proof of medical coverage, and, if applicable, a Physician's Verification Form completed by the appropriate doctor and/or an Income and Expenses Statement completed by you.

In addition, if you are self-employed or own your own business it may be helpful to bring, at a minimum, (1) the business tax returns and all supporting schedules or attachments and (2) copies of bank statements, both personal and business, for the last six months.

There are many other documents which could be helpful to support your case. Some examples might be: a full description of health care coverages and costs, copies of custody orders, printed copies of relevant text messages or emails, or mortgage statements. Depending on the specific circumstances of your case, many other types of documents could be relevant. In general, the more documentary evidence you are able to provide, the better.

5. Can other witnesses testify at a de novo hearing?

Yes. Either side is free to develop their case as fully as they feel is necessary. However, if you plan on presenting additional witnesses you should contact the support master's office to

help that office make sure there is sufficient time allotted for the hearing. Additionally, the support master reserves the right to dismiss any witness if their testimony is considered duplicative or irrelevant.

6. Can a party testify by telephone at the de novo hearing?

Yes. However, please be aware that the Rule of Civil Procedure which addresses telephone testimony in support matters is Pa. R.C.P. 1930.3 which states telephone testimony is to be the exception, not the rule. However, Rule 1930.3 provides that telephone testimony may be permitted where good cause exists. Thus, a client who wishes to testify by phone can provide evidence of a good cause to allow such testimony. The support master will review each request and make a decision based on the facts of the case.

7. Can the de novo hearing be continued?

Yes. The easiest way to continue a de novo hearing is by agreement. In almost all cases an agreed-upon request to continue will be sufficient to have the de novo hearing continued. Such a request must be made in writing and it must be signed and dated by both parties.

However, it is also possible to request a continuance without the agreement of the opposing party. A client wishing to proceed in this manner should submit their request to the support master along with their reasons for needing the continuance. The support master will make a decision based on a number of factors, but the main considerations will be whether that party has previously requested a continuance, how many days remain before the hearing, and whether the need for the continuance was unavoidable.

Whether the request is made as part of an agreement or as a one-party request, in all cases the request must be made as soon as the party or parties believe it will be necessary to continue the hearing.

8. Can a request for a de novo hearing be withdrawn?

Yes, but to successfully withdraw a request for a de novo, *both* parties must agree to that withdrawal. As soon as either party makes a request for a de novo hearing, both parties have the right to a de novo hearing. Therefore, neither party can cancel that hearing without the agreement of the other party.

A party wishing to withdraw their request for de novo review should send a written request to the support master. That request must include an original signature. The support master will also need to receive a signed written agreement from the opposing party stating they do not oppose the withdrawal of the request for de novo review. Otherwise the hearing will proceed as scheduled.

9. What can either party do if they want to appeal the support master's recommendation?

Within 20 days of the support master's recommendation either party may seek review by filing "exceptions." A Cumberland County judge will then review the exceptions.

10. How are exceptions different from a de novo hearing?

In reviewing the support master's recommendation a judge will request that each party file legal briefs in support of their position and, if a party requests oral argument or a judge feels oral argument is necessary, the parties may appear before the judge to present their legal arguments. However, no new facts are introduced into the record. The judge must make their decision based only on the same facts that were available to the support master.

11. How do I file exceptions?

There are only a few rules which you must follow to file exceptions:

- All exceptions must be in writing.
- All exceptions must include information sufficient to identify the case. Typically this is done by creating a case caption with the names of the plaintiff and the defendant, the docket number, and the PACSES number (e.g. Joe Smith v. Jane Smith, 123 S 2017, 123456789).
- You must include an original signature at the end of the exceptions.
- Pursuant to Pa. R.C.P. 1910.12, "Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to entry of the final order, leave is granted to file exceptions raising those matters." To implement this rule, it may be helpful to list each issue in a separate numbered paragraph
- For additional guidance, please refer to the sample filing at the end of this document.

The party filing the exceptions should also make two copies of the original – one for the domestic relations employee who will docket the exceptions and one for the court reporter. The original will go to the judge assigned to the exceptions.

12. Where do I file exceptions?

All exceptions should be filed at the Cumberland County Domestic Relations Section offices located at 13 N. Hanover Street, Carlisle, PA. You may file in person or by mail.

13. Is there a fee associated with filing exceptions?

There is no filing fee associated with exceptions. However, there will be a cost associated with producing the transcript of the de novo hearing. The cost of the transcript is based on the number of pages it contains, so it will vary based on the length of the hearing. The current charging rate is \$2.50 per page.

If you believe you are without the financial resources to pay for the transcript you may file a Petition to Waive All or a Portion of the Transcript Costs. The form for the petition is available on the Cumberland County website at <https://www.ccpa.net/4413/Transcript-Requests>.

The Petition to Waive All or a Portion of the Transcript Costs must then be filed in the same office that the exceptions were filed. See the answer to the Question #9 for more detailed information regarding where to file this petition.

14. Am I required to do anything after I file my exceptions?

Yes. Unless (a) you have filed a Petition to Waive All or a Portion of the Transcript Costs and (b) a judge waives all of your transcript costs, the Court Administrator's Office will send you an invoice for partial payment of the cost of producing the transcript of your de novo hearing. If, after you receive the invoice you do not think you can afford the cost of the transcript you can still file a Petition to Waive All or a Portion of the Transcript Costs (see the answer to Question #10 for more information about this petition).

If you do not file a Petition to Waive All or a Portion of the Transcript Costs and you fail to pay the partial payment as directed, your exceptions will be dismissed 30 days after the initial invoice was mailed.

Once you have made the partial payment and the transcript has been produced, you are required to submit a brief in support of each issue raised in your exceptions. If you fail to file a brief, your exceptions may be dismissed.

Once the transcript has been produced the Court Administrator's Office will send a final bill for the remainder of the transcript costs. The invoice will include instructions for payment and penalties for non-payment.

15. What will the judge do with my exceptions?

Unless a party requests oral argument, or the judge orders that the parties attend an oral argument, the judge will make a ruling based only on the transcript of the de novo hearing, any exhibits submitted into the record at the de novo hearing, and any briefs submitted by the parties. The judge will make a complete and independent review the support master's recommendation to make sure it was appropriate; however, the support master's report is given full consideration, especially in regard to credibility of a witness.

16. Can I appeal the judge's decision?

Yes. Within 30 days of the judge's order either party may file an appeal to the Pennsylvania Superior Court.

JOE G. SMITH, : IN THE COURT OF COMMON PLEAS OF
Plaintiff, : CUMBERLAND COUNTY, PENNSYLVANIA
 :
vs. : DOMESTIC RELATIONS SECTION
 : DOCKET NO. 123 S 2017
JANE C. SMITH, : PACSES NO. 123456789
Defendant. :

EXCEPTIONS TO SUPPORT MASTER'S REPORT AND RECOMMENDATION

1. Plaintiff should have been imputed an earning capacity equal to their income from their last job.¹
2. Plaintiff's childcare costs should not have been considered.
3. The support master did not consider the length of the marriage.

January 1, 2017
Date

Jane Smith

¹ These "issues" are written out here only for purposes of displaying the format of the document. The issues in every exception process are different. There is also no significance to the presentation of three issues; your exceptions may have more issues or less issues. Each case is different.