

Child Support: Extraordinary Expenses in Guideline Cases

The North Carolina Court of Appeals recently affirmed the trial court order in [Madar v. Madar, \(Dec. 31, 2020\)](#), that required both parents to pay costs associated with their child's mental health treatment in a residential treatment facility in addition to their basic child support obligation pursuant to the [Child Support Guidelines](#). The court held that the Child Support Guidelines give the trial court the discretion to determine when parents should be ordered to pay such 'extraordinary expenses' as part of their child support obligation. Because ordering the payment of extraordinary expenses does not constitute a deviation from the Child Support Guidelines, a trial court is not required to make findings of fact to support its decision that the expenses are reasonable and necessary or that the parties have the ability to pay.

[Madar v. Madar](#)

The youngest child of the parties suffered from severe mental illness and was residing in a residential treatment program at the time of the child support hearing. The trial court determined that the expenses related to the child's inpatient treatment, including travel costs and psychological evaluations, were extraordinary expenses as defined by [the Child Support Guidelines](#) and ordered that defendant pay 60% of the costs and that plaintiff pay 40% of the costs in addition to the child support obligation calculated pursuant to the Guidelines.

Defendant argued on appeal that the trial court erred in concluding both parents had a duty to pay for the costs associated with the child's residential treatment. The court of appeals disagreed, holding that the Child Support Guidelines authorize the court to order payment of extraordinary expenses in addition to the monthly child support obligation required by the Guidelines when the trial court determines it is appropriate to do so. The [Guidelines](#) state:

"extraordinary child-related expenses (including (1) expenses related to special or private elementary or secondary schools to meet a child's particular education needs, and (2) expenses for transporting the child between the parent's homes) may be added to the basic child support obligation and ordered paid by the parents in proportion to their respective incomes if the court determines the expenses are reasonable, necessary, and in the child's best interest."

The court of appeals held that a trial court has discretion to determine whether an expense constitutes an extraordinary expense, whether to order payment of an expense as an extraordinary expense, and how the expense should be apportioned between the parties.

Not a Deviation

When the trial court sets support in accordance with the Guidelines, the amount ordered is conclusively presumed to meet the reasonable needs of the child based on the parents' ability to pay. Therefore, specific findings about the child's reasonable needs and the relative ability of each

parent to provide support are not required. [2020 Guidelines](#); *Browne v. Browne*, 101 NC App 617 (1991). However, when a court deviates from the Guidelines, the order must be supported with specific findings regarding the needs of the child and the ability of the parent to pay. [2020 Guidelines](#); *Row v. Row*, 185 NC App 450 (2007).

In [Madar](#), the court of appeals rejected husband's argument that the trial court was required to make findings regarding the needs of the child and the ability of the parents to pay before ordering payment of the residential treatment expenses, explaining that orders for the payment of extraordinary expenses are Guideline orders and are not deviations from the Guidelines. As a Guideline order, no findings regarding needs of the child and ability of parents to pay are required. See also *Biggs v. Geer*, 136 NC App 294 (2000)(trial court not required to make findings to show private school expenses were reasonable, necessary and in the child's best interest); *Doan v. Doan*, 156 NC App 570 (2003)(no findings were required to show ice skating expenses were reasonable and necessary but case was remanded for trial court to make findings to establish the amount of the monthly expenses related to the ice skating).

Examples of extraordinary expenses

The Guidelines specifically list education expenses and the cost of transporting a child between the parents' homes as extraordinary expenses, but the court of appeals has held that the list of expenses in the Guidelines is not exhaustive. *Mackins v. Mackins*, 114 NC App 538 (1994). The trial court has the discretion to determine what expenses constitute extraordinary expenses, the amount of those expenses that should be paid, and how the payments should be apportioned between the parties. *Mackins*; [Madar](#).

In addition to upholding orders to pay private school expenses, see *Biggs v. Geer*, 136 NC App 294 (2000) and *Balawejder v. Balawejder*, 216 NC App 301(2011), the court of appeals also has upheld orders to pay ice skating expenses, *Doan v. Doan*, 156 NC App 570 (2003), and costs for summer camps, *Balawejder*. But the court of appeals also has upheld a trial court's denial of a request to order travel expenses where father failed to establish expenses that had been or would be incurred with sufficient certainty to satisfy the trial court. *Foss v. Miller*, unpublished opinion, 235 NC App 655 (2014), and has upheld a denial of a request for private school expenses where the trial court concluded father did not have the ability to pay the expenses. *Ludham v. Miller*, 225 NC App 350 (2013).