

Challenging a child support assessment

Author: Jane Holford
Email: jane@smithfamilylaw.com.au
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Under limited circumstances, you can make an objection regarding child support to the courts. Before you can make an application to the court, you must first lodge an objection with the Child Support Registrar ("CSR") for a change in the assessment. In this blog, we explore on what grounds you may be able to challenge an assessment, how to challenge it and time limits in place.

Child support is a payment made after separation, by one parent to the other, for the support of children of the relationship (up to 18 years of age). Determining the amount payable is usually via an administrative process.

You can learn more about how the administrative assessments work, varying those assessments and the types of Child Support Agreements available, on our "Child Support" page.

Under some circumstances, you can challenge how an assessment is calculated.

Objections about care percentage

"Care percentage" relates to the time the children spend with you and the other parent.

An objection about care percentage can be lodged with the CSR.

There is no time limit on objections about care percentage, however, the Child Support Agency cannot backdate child support changes unless they receive your objection within:

- 28 days of receiving the assessment (if you live in Australia);

- 28 days of receiving the assessment if you live outside Australia in a non-reciprocating jurisdiction); and
- 90 days of receiving the assessment (if you live outside Australia in a reciprocating jurisdiction).

Therefore, it is important to make an objection as soon as possible after receiving notice of a child support assessment.

Objections to decisions not about care percentage

Circumstances that do not relate to care percentage could include:

- changes to the income of one or both parents;
- a period of reconciliation of the parents; and
- changes to the number of children a parent is paying child support for. For example, if a parent has more children with a new partner.

If there is a change in circumstances, a party can apply for a variation of the administrative assessment. The Child Support Agency will then make a new assessment (where applicable).

If you disagree with the assessment, an objection that is not about care percentage must be lodged with the CSR within:

- 28 days of receiving the assessment (if you live in Australia);
- 28 days of receiving the assessment if you live outside Australia in a non-reciprocating jurisdiction); and
- 90 days of receiving the assessment (if you live outside Australia in a reciprocating jurisdiction).

The CSR will decide about your objection within 60 days if you and the other parent live in Australia, or 120 days if you or the other parent lives overseas in a reciprocating jurisdiction.

What happens if the time limit passes?

There is provision for objections out of time, but they cannot be guaranteed.

If you want to apply for the CSR to consider an objection out of time, you must explain why you did not lodge the objection within the time limit. The Registrar will take the following factors into consideration when determining whether to grant or refuse your application:

- Your reason for the delay (e.g. illness, absence from home and any efforts made to lodge within the timeframe);
- The merits of your objection (e.g. whether it appears you have an arguable case);
- Any prejudice to the other parent (e.g. what the delay will mean to the other parent in terms of payments and ability to provide information);

- Whether you rested on your rights (e.g. whether you took any action to make the Registrar aware that you contested the decision); and
- Any prejudice to the general public; e.g. if the extension of time would mean a departure from established practices, or you were being given special treatment. Essentially, if others with the same circumstances were denied an objection out of time, you will be too, otherwise it would cause prejudice to the general public.

Notice of decision about objecting to a child support decision

The CSR must advise you if a decision was made to refuse to grant an extension of time. The other parent does not have to be notified.

This notice must include written reasons for the decision and advise you that you can apply to the Administrative Appeals Tribunal if you disagree with the decision.

If the CSR has decided to grant you an extension of time, they must notify you and the other parent. The same notice requirements apply as if the CSR refused the decision.

In these circumstances, you will have 60 days from the day the CSR grants an extension for the CSR to consider the objection (120 days if you or the other parent lives outside of Australia).

Can I appeal a rejection by the Child Support Registrar to grant an extension out of time?

If the CSR rejects your objection, you may apply to the Administrative Appeals Tribunal. You must do this within 28 days of receiving an objection letter from the Registrar.

How a family lawyer can help

Smith Family Law can assist you in objecting to a child support assessment, appealing a rejected objection and advise you how best to strengthen your case.

Contacting Smith Family Law

03 8625 8957

info@smithfamilylaw.com.au

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.