

# Old-Age Assistance: Determining Extent of Children's Ability To Support

by ELIZABETH EPLER \*

*State old-age assistance provisions for determining which adult children are to be held responsible for the support of their parents and the provisions for enforcing their responsibility were summarized in the April issue of the Bulletin. The article that follows summarizes the methods that State agencies use to determine the extent of the children's liability.*

IN 1827, Chief Justice Richardson of the Superior Court of New Hampshire, considering the question of whether a son should be charged with the support of his father, wrote: "As to what shall be deemed sufficient ability the statute is silent. Indeed, it would have been difficult, if not impossible, to have prescribed a safe and certain rule by which the ability of individuals might have been in all cases properly determined. It is a question which in its nature must depend on divers circumstances perpetually varying . . . There are men, who possess ample fortunes and whose ability to maintain their poor relations cannot be doubted . . . There are other men of fortunes so slender, and of means to maintain themselves so precarious, that our feelings would revolt at seeing the burden of supporting their poor relations thrown upon them. In cases of these classes the question of ability is easily settled. But there is a numerous class of men in the community who are neither poor nor rich; who are in moderate circumstances; who are able in a fortunate season to add something to their estates, but who are liable in another season to fall behind hand by reason of sickness or other misfortune; and with respect to individuals of this class it is often very difficult to say whether they are or are not of sufficient ability."<sup>1</sup>

In the century and a quarter since Chief Justice Richardson wrestled

with the problem of determining "sufficient ability," some precedents have been established and some tools useful in determining ability have been developed—cost-of-living indexes, studies of consumer purchases, and standard budgets. Assistance agencies are still faced, however, with the problems of considering "divers circumstances perpetually varying," and of deciding where to draw the lines, among relatives in moderate circumstances, in order to determine who should be considered unable to contribute, who can contribute something but less than full support, and who can contribute full support.

When the old-age assistance plan provides either for some type of court action against sons and daughters of recipients or for basing decisions as to eligibility and payment on whether or not the sons and daughters are able to support, the assistance agency is of necessity concerned with the problem of how to determine their ability.

Most agencies that have either of these types of plan provisions have some clearly defined method of determining the ability of children<sup>2</sup> to support or to contribute to the support of aged applicants and recipients. These agencies have attempted to arrive at some reasonable compromise between the need for simplicity and uniformity and the need for individualization—the recognition of "divers circumstances perpetually varying."

As reported in the April issue of

the BULLETIN, 14 State plans permit or require denial of assistance under specified circumstances when children are able to support the parents, and plans in 21 additional States, though not denying assistance merely on the basis of determined ability to support, provide for court action when the children fail to support.

Twenty-seven of these 35 States, as of October 1952, use an income scale or a similar specific method to determine ability of children. All these States provide for arriving at specific dollar amounts, in relation to the number of persons dependent on the income of the son or daughter, that are expected to cover all usual living expenses but not expected to provide a margin for contributions to the parent. In this report, these dollar amounts are called the "base sums." Illinois, Tennessee, and West Virginia use actual costs of shelter in arriving at the base sums. The other 24 States have income scales specifying base sums that are expected to cover all usual expenses, including shelter.

This article discusses chiefly the income-scale provisions in the 24 States. Several of these States use somewhat different methods in determining contributions to be expected from adult children sharing living arrangements with their parents and from those not sharing such arrangements. To the extent that the methods differ, the discussion is limited to methods of determining ability of children not living with their parents. Where the State plans make out-of-State children responsible for support of their parents, the income scales are generally applied in the same way to children both in and out of the State.

The income scales are spelled out in the laws of six States.<sup>3</sup> The

\*Division of Program Statistics and Analysis, Bureau of Public Assistance.

<sup>1</sup> *Dover v. McMurphy*, 4 New Hampshire 158.

<sup>2</sup> "Children," as used in this article, refers only to adult children.

<sup>3</sup> Alabama, California, Iowa, Massachusetts, Nevada, and Oregon.

Georgia law in effect directs the assistance agency to establish an income scale. In 21 of the 27 States (including Georgia) the income scales or other specific methods of determining ability of children are established by administrative ruling.

Usually the State agencies, in developing measures of ability, have adapted data on components and costs of the city worker's family budget, published by the Bureau of Labor Statistics, or similar data. In Iowa the old-age assistance law specifies that the State income-tax exemptions are to determine the income level at which a child's liability for support of parents begins.

The income-scale provisions vary from State to State in four important respects: (1) the amounts of the base sums, expected to cover all usual living expenses but not to provide a margin for contributions; (2) the types of, and methods of allowing for, unusual expenses not covered by the base sums; (3) the methods of allowing for income-tax payments and other payroll deductions such as social security taxes; and (4) the proportions of the income, in excess of the base sum and the unusual expenses, that the children are expected to contribute.

There are, in addition, differences in definitions of person who may be counted as dependent on the child's income. The methods of applying the scales to incomes of married daughters also vary. Generally, the married daughter is expected to contribute only if she has income of her own, and she is then given a choice between having only her own income considered or having it combined with her husband's income and considered in relation to the base sum (and unusual expenses) for the total number of persons dependent on the combined incomes. If only the daughter's own income is considered, under some plans it is related to the base sum for a single person; under others, no base sum or a base sum less than that for a single person is allowed because the married daughter is legally dependent on her husband, and it is assumed that he supports her fully or partly.

A third of the States with income-

scale provisions, as well as the three States with other specific methods of determining ability, allow actual taxes and other payroll deductions in addition to the base sum before determining the expected contribution. The others include amounts for taxes and other payroll deductions in the base sums and make no additional allowance for these items.

### Differences in Base Sums

Table 1 shows for each of the 24 States with income-scale provisions the monthly base sum (adjusted for Federal income taxes with the standard deductions) for a son or unmarried daughter with no dependents other than the aged parent or parents and for a son or daughter with three dependents other than the parent. No adjustments have been made for other payroll deductions or for State income taxes, which are generally treated in the same way as the Federal income tax. The Federal income tax is, of course, by far the most important of these items.

When the child's income falls below the specified base sum, no contribution is expected, but if the child makes a voluntary contribution it is, of course, taken into account in determining the assistance payments.

For a son or unmarried daughter with no dependents other than the aged parent, the monthly base sums, before Federal income taxes, are \$200 or more in nine States, between \$150 and \$200 in 12 States, and less than \$150 in the other three. (The base sum for those living in non-urban counties of Maryland is also less than \$150.)

For a family of four—a son or daughter with three dependents other than the aged parent—the base sums, before Federal income taxes, are \$400 or more in four States, between \$300 and \$400 in 16 States, and less than \$300 in the other four.

Estimated annual costs, including taxes, of the BLS city worker's family budget for four persons, computed for 34 large cities for October 1951, were lowest in New Orleans (\$3,812) and highest in Washington, D.C. (\$4,454). These figures are not, of course, strictly comparable with the base sums of the

income scales for a number of reasons. Because of further increases in the cost of living since October 1951, the BLS figures understate costs at the time (October 1952) to which the data from the income-scale provisions relate. Nine

Table 1.—*Monthly base sums before and after Federal income taxes,<sup>1</sup> under OAA income-scale provisions, 24 States, October 1952*

State	Son or unmarried daughter with no dependents		Son or daughter with 3 dependents	
	Before Federal income taxes	After Federal income taxes	Before Federal income taxes	After Federal income taxes
Alabama.....	\$200	\$171	\$410	\$372
Arkansas.....	174	150	282	270
California.....	200	171	400	364
Connecticut.....	170	147	320	301
Delaware.....	208	178	308	291
Dist. of Col.....	181	156	369	339
Georgia.....	200	171	410	372
Hawaii.....	170	147	315	297
Iowa.....	142	125	257	250
Kentucky.....	185	159	332	310
Maine.....	183	158	333	311
Maryland <sup>2</sup> .....	145/155	127/135	265/275	257/264
Massachusetts.....	220	188	387	354
Michigan.....	255	215	375	345
Minnesota <sup>2</sup> .....	153/160	134/139	305/320	288/301
Mississippi.....	145	127	300	284
Nevada.....	236	200	319	300
New Jersey.....	195	167	375	344
New York <sup>3</sup> .....	170	147	343	313
Ohio.....	200	171	400	364
Oregon.....	230	195	338	315
Pennsylvania.....	160	130	340	317
Rhode Island.....	162	141	351	325
Virginia <sup>4</sup> .....	102-138	93-121	187-238	187-235

<sup>1</sup> Base sums listed in State plans are amounts either before or after taxes; they are amounts before taxes except in Arkansas, the District of Columbia, Iowa, Kentucky, Massachusetts, Nevada, New York, and Oregon. Computed figures shown here based on assumption that child pays standard tax without itemizing deductions and claims either 1 or 4 exemptions. All figures are rounded to the nearest dollar. In New Jersey, some additional allowance made for taxes on higher incomes.

<sup>2</sup> Two scales; the higher amount applies to sons or daughters living in specified urban areas, the lower to all others.

<sup>3</sup> Figures from scale suggested by the State agency; local agencies may establish alternative scales or other methods, subject to State agency approval.

<sup>4</sup> Three scales; the highest amount applies to sons or daughters living in specified metropolitan areas; the middle amount to those in nonmetropolitan, urban areas; and the lowest to those living in specified nonurban areas.

of the income scales were revised—generally upward—in 1952, and two were newly adopted in that year. On the other hand, the base sums understate the costs of living as measured by the income-scale provisions, since additional amounts may be allowed for unusual expenses.

Despite these differences, some generally valid comparisons may be

made. The Michigan agency based 1952 revisions of its income scale on basic living costs in the city worker's family budget, adjusted to the consumers' price index as of February 1952. To these basic costs were added flat amounts for occupational expenses and the varying amounts of social security and income taxes. In this State and in six others, as of October 1952, the base sums for a son or daughter with three dependents were higher than the highest of the city worker's budget figures in October 1951. In these States the income scales undoubtedly permit the sons and daughters to maintain a level of living at least comparable with that of the city worker's budget before any contribution to the support of their parents is expected. In six other States and in Hawaii, the base sums were lower than the lowest of the city worker's budget figures. It is probable that in these States the contributions expected from at least some of the children would reduce the income remaining for the child's own family below that needed to maintain the level of living of the city worker's family budget.

### Income Larger Than Base Sum

When the income of the adult child is more than the specified base sum, a contribution may be expected unless the child and his family have unusual expenses that offset the additional income. All States using income scales or similar specific measures of ability allow for certain types of unusual expenses, in addition to the base sums, to determine on an individual basis whether or not the son or daughter is expected to contribute. Some plans provide that the unusual expenses shall be added to the base sum (or subtracted from the income) before the expected contribution is determined. Other plans provide in general terms for waiving or reducing the determined amount of the expected contribution when the son or daughter has unusual expenses. Medical care is one of the items of special expense most commonly allowed for.

Expected contributions are expressed either as a percentage of the amount above the base sum (plus

unusual expenses) or as dollar amounts in relation to the specified income levels for sons or daughters with specified numbers of dependents. Except in Maine, where

**Table 2.—Expected contributions under OAA income-scale provisions, 22 States, <sup>1</sup> October 1952**

State	Largest possible expected monthly contribution from son or daughter with—	
	No dependents and \$250 monthly income before taxes <sup>2</sup>	Three dependents and \$400 monthly income before taxes <sup>2</sup>
Alabama.....	\$25	\$0
Arkansas.....	30	47
California.....	10	0
Connecticut.....	40	40
Delaware.....	21	46
District of Columbia.....	54	25
Georgia.....	25	0
Hawaii.....	40	43
Iowa.....	17	23
Kentucky.....	52	54
Maryland <sup>3</sup> .....	95/105	125/135
Massachusetts.....	8	3
Michigan.....	0	9
Minnesota <sup>3</sup> .....	30/32	27/32
Mississippi.....	53	50
Nevada.....	10	10
New Jersey.....	35	25
Ohio.....	10	0
Oregon.....	15	15
Pennsylvania.....	35	25
Rhode Island.....	88	49
Virginia <sup>4</sup> .....	56-74	81-107

<sup>1</sup> Excludes Maine and New York. Maine does not determine expected contribution because an OAA applicant is ineligible if a child (living in Maine) has income above the base sum (plus specified medical care costs). In New York the scale suggested by the State agency provides for varying expected contributions.

<sup>2</sup> In 1952 the monthly Federal income tax on \$250 for a person claiming only 1 exemption and not itemizing deductions was \$39.50; on \$400 for a person filing a joint return, claiming 4 exemptions, and not itemizing deductions it was \$35.92. These amounts were used to compute expected contributions listed in this table for the 8 States that allow amounts for taxes in addition to the base sums: Arkansas, the District of Columbia, Iowa, Kentucky, Massachusetts, Nevada, New Jersey, Oregon. In general, in these States, if a contributing child claims income-tax exemption for his parent as dependent and thus pays a lower tax, the expected contribution would be somewhat higher. In the other 14 States, expected contributions are not affected by the amount of taxes.

<sup>3</sup> Two scales; the lower contribution is expected from sons or daughters living in specified urban areas.

<sup>4</sup> Three scales; the lowest contribution is expected from sons or daughters living in specified metropolitan areas.

no contributions are computed, the expected contributions range from 20 percent, or an approximation of 20 percent, of the amounts above the base sums in four States to 100 percent of such amounts in five States.

In Michigan the expected dollar amounts are roughly equivalent to the amount of income above the base sum divided by the number of per-

sons in the child's family plus one. The theory is that this income should be shared equally among the members of the child's family and the child's parent.

Of the four States<sup>4</sup> that have set absolute maximums on the contributions that may be expected regardless of the child's income, two vary the maximum according to the number of persons in the child's family. The varying maximums give an advantage, among children with the specified number of dependents, only to those with the higher incomes.

In Maine an applicant is not eligible for assistance if he has a child who lives in the State and whose income is higher than the base sum (or the base sum plus cost of medical care up to a specified maximum). The child may thus be expected to provide full support, even if his income is only a little higher than that of a child who is not expected to contribute. In two additional States some children making the determined expected contributions would have left for their own use, after taxes and contributions, a little less than the base sum—that is, less than the amount established to meet the needs of the noncontributing children. In these two States the expected contribution is all the income above the base sum (plus special expenses), and no additional allowance is made for the taxes on the income above the base sum.

The largest contributions that might be expected from children with the same amount of income and the same number of dependents are shown in table 2 for 22 States. The amount of the expected contribution would be the same for two parents, if both are applying for or receiving assistance, as for one. Study of the expected contributions provides generally valid interstate comparisons, since the computations take account of the differences in the base sums, in methods of treating Federal income taxes, and in the propor-

<sup>4</sup> Alabama (\$50), Michigan (\$86), Nevada (\$40-85, varying with the number of persons dependent on income), and Oregon (\$100, except when the child's family consists of 10 or more persons, in which case the maximum contribution is \$90).

tions of income above the base sums that the children are expected to contribute. In any given case the expected contribution might, however, be less than the listed amount for any of several reasons. A son or daughter with specified unusual expenses would, of course, be expected to contribute less than the listed amount. In addition, as far as the assistance agency is concerned, the child or children would not be expected to contribute more than enough to meet the total assistance requirements (or the difference between total assistance requirements and any other income that the applicant or recipient may have). When more than one child is expected to contribute, each may be expected to meet only his pro-

portionate share of the parent's needs. On the other hand, some children voluntarily contribute more than the expected amount.

A son or an unmarried daughter with no dependents, other than the parent or parents, and with a net monthly income of \$250 before taxes might be expected to make some contribution in each of the States with income-scale provisions except Michigan. The largest possible expected contribution would be \$25 or less in nine States; \$40 or less in six additional States; and more than \$50 in the other six States. The six States where the expected contributions are highest include four of the States where the child may be expected to contribute all his income above the base sum (plus un-

usual expenses); in the other two States, the expected contribution is only half the amount above the base sum, but the base sums are among the lowest.

A son or daughter with three dependents, other than the parent or parents, and with a net monthly income of \$400 before taxes would not be expected to contribute in four States. The largest possible expected contribution would be \$25 or less in eight States, \$50 or less in seven additional States, and more than \$50 in the other three States.

The income scales, whatever their imperfections, go a long way toward assuring reasonable and equitable determination of children's ability to contribute to the support of their parents.