

## ***What is spousal support?***

Spousal support, also called alimony, is financial support that one ex-spouse pays to the other. The purpose of spousal support is to lessen the financial hardship that may result when a couple separates.

## ***When does a court order spousal support?***

In New Mexico, a court may order spousal support only when one spouse needs financial support *and* the other spouse is able to pay it. The court usually concludes that a spouse whose income from all sources is below \$20,000 per year is unable to pay spousal support.

In a case in which one spouse wants support from the other, the court will consider several factors:

- The age and the health of the spouses
- The current earnings, likely future earnings, and the ability to earn, of each spouse
- The good-faith efforts of the spouses to keep earning income or to become self-supporting
- The reasonable needs of each spouse, including:

- standard of living during the marriage
- continuing cost of medical insurance for both spouses
- cost of life insurance for the person who is to pay support
- length of the marriage
- the amount of property that each spouse takes from the marriage
- debts of each spouse, including the duty to pay child support
- income made from property owned by each spouse
- the terms of any pre-marital agreement of the spouses

## ***How long does a person have to be married in order to qualify for spousal support?***

Assuming that this spouse needs financial support and the other spouse has the ability to pay it, New Mexico courts generally will not order spousal support when a marriage is shorter than five years.

There are exceptions to this rule, however.

### ***How long does spousal support last?***

New Mexico recognizes three types of spousal support: “indefinite” support, “reimbursement” support, and “transitional” support. Some courts call indefinite support “permanent” support, although that name is less accurate.

Indefinite support generally has no specific ending date; the other two kinds of spousal support have either a termination amount or a termination date, or both.

A court will consider indefinite spousal support when the person asking for support:

- has a serious disability;
- is at least 55 years old and has not worked full-time outside the home for the last five years or longer; or
- is the primary caregiver for a child who has a serious disability.

It is possible in these situations for the support to continue for the recipient’s life time. It is also possible for the payment to change in amount or even end if the person ordered to pay support

loses the means to pay through no fault of his or her own.

The court can order “reimbursement” support in the situation in which one spouse supported the other when that spouse was going through advanced professional or educational training (such as law school or medical school) and the couple split up before the supporting spouse got the benefit of the trained or educated spouse’s increased income.

The court can order “transitional” support when one spouse has the ability to pay and the other spouse needs support when that spouse

- gave up a career, a high-paying job, or educational opportunity in favor of the marriage
- needs time to get back to work after a temporary health care or child care problem, or needed to learn or improve work skills in order to become self-supporting
- is caring for at least one child under age 6, and the spouses agreed that this parent should stay home with the child
- is caring for at least one child under age 6, and it is not practical for the parent to earn more than is needed

for work-related child care expenses.

***Does the person who receives spousal support have to report it as income?***

Yes. The IRS says this income is taxable. Furthermore, the person who pays it may not deduct it. For this reason, people with children sometimes decide to allocate more money for child support—because the payer can deduct it--and less for spousal support. A person who has children and is interested in getting spousal support should talk to an attorney about tax questions.

***Does a person who is ordered to pay child support also have to pay spousal support?***

Parents have a duty to support their children. State guidelines usually determine how much child support a parent must pay. After a court has ordered a parent to pay child support, there may not be enough money left over for the court to order spousal support, too.

***Are there other ways to provide spousal support***

***besides regular monthly payments?***

Yes. The parties can agree to divide assets from the marriage so that the person who needs support gets a large enough share to have a long-term resource. Or one spouse can agree to take on a larger share of the family's debts. Anyone who is thinking about seeking spousal support should get the advice of a competent attorney.