

My Spouse has an Income, so Why Would I have to Pay Alimony?

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Known Indefinite Alimony Awards in Reported Maryland Cases.

The purpose of alimony is not to provide a lifetime pension. Rather, alimony is designed to provide the recipient spouse an opportunity to become self-supporting. Nonetheless, in cases where it is either impractical for the dependent spouse to become self-supporting or in cases where the dependent spouse will be self-supporting but still a gross inequity will exist, a court may award alimony for an indefinite period of time.

A court may award indefinite alimony if it finds that: (1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or (2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

Although a significant mathematical disparity in income is not necessarily a sufficient condition to justify an award of indefinite alimony, it is nonetheless a necessary condition. But mathematical disparity is only the starting point of an unconscionability analysis. The court must look to the factors of Maryland Code Ann., Fam. Law § 11-106(b), which provides guidance in determining an appropriate award. Of course, the greater the income disparity, the more likely that it will be found unconscionable, all other factors remaining equal.

The court has discretion in determining the length of alimony. In Maryland, it is interesting to note the following cases in which the mathematical disparities of each party's income were considered in the court's award of indefinite alimony. In *Tracey v. Tracey*, 328 Md. 380 (1992), an indefinite alimony award was upheld where the Wife's post-divorce income was **28%** of the Husband's; in *Caldwell v. Caldwell*, 103 Md. App. 452 (1995), an indefinite alimony award was upheld where the Wife's post-divorce income was **43%** of the Husband's; in *Blaine v. Blaine*, 97 Md. App. 689 (1993), an indefinite alimony award was upheld where the Wife's post-divorce income was **23%** of the Husband's; in *Rock v. Rock*, 86 Md. App. 598 (1991), an indefinite alimony award upheld where Wife's post-divorce income was **20-30%** of Husband's; in *Broseus v. Broseus*, 82 Md. App. 183 (1990), an indefinite alimony award upheld where Wife's post-divorce income was **46%** of the Husband's; *Bricker v. Bricker*, 78 Md. App. 570 (1989), an indefinite alimony award upheld where the Wife's post-divorce income was **35%** of the Husband's; in *Benkin v. Benkin*, 71 Md. App. 191 (1987), an indefinite alimony award upheld where the Wife's post-divorce income was **16%** of the Husband's; in *Zorich v. Zorich*, 63 Md. App. 710 (1985), an indefinite alimony award was upheld where the Wife's post-divorce income was **20%** of the Husband's; in *Kennedy v. Kennedy*, 55 Md. App. 299 (1983), an indefinite alimony award was upheld where the Wife's post-divorce income was **33%** of the Husband's.

Disparity in income is one of the many factors in determining the amount and length of an alimony award. Whether you are the dependent or earning spouse, competent counsel should be sought to do a complete alimony analysis in preparing for the resolution of this issue related to a divorce.