

Basic Income-Withholding Order Guidelines on Allocation for Multiple Orders for Private Employers

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Basic Income-Withholding Order Guidelines for Private Employers on Allocation for Multiple Orders

Background - Income Withholding Orders (IWO)

What is an IWO?

An IWO is a court or administratively ordered deduction of a specified amount from a parent's income for payment of child support. A child support income withholding must be paid before all other garnishments. Not only must child support be paid first, a higher percentage of the employee's disposable income can be withheld for child support. The only withholding that takes precedence over child support is a Federal tax levy issued prior to when the child support order was established.

What is the employers' responsibility?

The employer deducts the specified amount each pay period and sends it to the child support agency's State Disbursement Unit (SDU) (or another address when appropriate), which then forwards the payment to the custodial party. All employers must honor an income-withholding order/notice for child support from any State. Income-withholding orders/notices are valid throughout the country and U.S. territories.

What does the employer do if there are multiple orders for child support for one employee?

Federal regulations require that some money must be paid to each order for current support if there is more than one withholding order. States enacted laws specifying the method for apportioning funds toward current support due for each order. The orders should not be paid on a "first come, first served" basis.

The requirement for States to have a method for allocation of monies due when there are multiple obligations for one obligor is found in regulation at 45 CFR 303.100(a)(5): each State:

"Must establish procedures for allocation of support among families, but in no case shall the allocation result in a withholding for one of the support obligations not being implemented."

Who can an employer contact if there are more questions?

For additional information on child support enforcement and the processing of income-withholding orders, contact Cynthia Holdren of the Federal Office of Child Support Enforcement (OCSE) at cynthia.holdren@acf.hhs.gov.

Income Withholding Orders

Processing the IWO

All States are required to use a standardized withholding form entitled *Order/Notice to Withhold Income for Child Support* (OMB No. 0970-0154). Upon receipt of the Order/Notice to Withhold Income for Child Support, the employer should:

1. Document the date of receipt.
2. Determine if the order is "regular on its face" (that is, it appears to be an authentic and complete legal document.) If the document is not sent by the child support enforcement agency or a court, a copy of the underlying court order must accompany the Notice to Withhold.
3. Give a copy of the Order/Notice to the employee.
4. Follow the terms of the order.
5. Direct questions, if any, to the point of contact listed on the form.

Only the employee has the right to dispute the terms of a child support income-withholding order and should do so by contacting the issuing agency or tribunal. The employer cannot contest the income-withholding order. However, the employer should contact the issuing agency if unable to implement the withholding either because the individual named in the order is not an employee or because there is already a withholding in place for the same child and employee.

Follow the law of the *issuing State* for:

- Duration and amount of child support, current and overdue (arrears)
- Medical support terms
- Where to remit payments
- Payment of fees and costs charged (if any) by the child support enforcement agency, issuing court or custodial party's attorney.

Follow the law of the employee's *principal place of employment* (State of official duty station) for:

- When to begin withholding
- When to remit payments (this can be from 1 to 7 days after payday)
- Maximum amount to be withheld (within Consumer Credit Protection Act limits)
- How to allocate withholding across multiple child support orders
- Employer's administrative fee
- Other terms and conditions that may be set by State law.

Note: State specific information may be accessed through the OCSE website at www.acf.hhs.gov/programs/cse/newhire/employer/contacts/contacts.htm.

How to Determine Disposable Income

There are two basic steps to determine how much to withhold for child support from an employee's income: calculating disposable income and calculating allowable disposable income.

1. Disposable Income = gross pay – mandatory deductions

- Disposable income is the amount of earnings remaining after subtracting certain mandatory deductions from an employee's gross pay.
- Mandatory deductions include Federal, State and local taxes, unemployment insurance, workers compensation insurance, State employee retirement deductions, and other deductions determined by State law.
- Note that disposable income is not necessarily the same as net pay. An employee may have a deduction taken from his pay that is not mandatory, such as union dues or a credit union car loan payment, or some other voluntary allotment.

2. Allowable Disposable Income = disposable income x CCPA % limit

- Allowable disposable income is the *maximum available* for child support withholding. The ordered child support amount will usually be less than the allowable disposable amount and then the ordered amount can be withheld without any problem. Even if the withholding order specifies a higher payment, the allowable disposable income is the maximum that may be withheld.
- The Federal Consumer Credit Protection Act (CCPA) sets limits on withholding from an employee-parent's disposable income based on his/her current family situation and child support payment history. The CCPA protects the employee from having an excessive amount withheld. (Some States enacted laws that provide even more protection to the employee-parent's income, although most States follow the Federal limits.)
- The withholding limits set by the Federal CCPA are as follows:
 - 50% Supports a second family, with no arrears or < 12 weeks in arrears
 - 55% Supports a second family, and more than 12 weeks in arrears
 - 60% Single, with no arrears or < 12 weeks in arrears
 - 65% Single, and is more than 12 weeks in arrears.

Note: A second family means there are other dependents, a spouse and/or child, for which the employee-parent has responsibility. "In arrears" means there is past due, unpaid support owed by noncustodial parent.

Example # 1 - Allowable Disposable Income

- Weekly gross pay is \$760.
- Weekly child support due is \$295.
- Mandatory deductions total \$151
- Employee-parent is single and does not owe past due child support.

Note the following differences between net pay and disposable income in this example. The amount of disposable income, \$609.00, is used to determine child support withholding limits, rather than the net pay, \$469.

	Disposable Income	Net Pay
Gross Pay	\$ 760.00	\$ 760.00
Deductions	Less mandatory deductions only	Less deductions
Federal income tax	- 95.00	- 95.00
FICA	- 45.00	- 45.00
Medicare	- 11.00	- 11.00
Union dues		- 10.00
Savings bonds		- 25.00
Union pension		- 30.00
Credit union car loan		- 50.00
	\$ 609.00	\$ 469.00

Step 1: Gross pay – mandatory deductions = disposable income
 $\$760 - \$151 = \$609.00$

Step 2: Disposable income x CCPA % limit = allowable disposable income
 $\$609 \times 60\% = \365.40

Note: 60% is the applicable CCPA limit because the employee-parent is not supporting a second family and does not owe any back child support. Allowable disposable income is the maximum available for child support withholding. Allowable disposable income (from Step 2 above) is \$365.40.

- $\$365.40 > \295.00 , so the full \$295 is withheld for child support.

If you take the same example but increase the weekly child support payment to \$400, you cannot withhold the full amount due. By law, you can only withhold a maximum of \$365.40. This means that the employee will fall behind by \$34.60, and will be “in arrears.” Some States charge interest on the overdue amounts. The employee has the option of paying the underpaid amount directly to the issuing agency if he or she does not want to fall into arrears, or the employee may ask that the employer “voluntarily” withhold the unpaid amount.

Application of the Requirement

If there is enough allowable disposable income, the employer should pay the full amount of current support due for each order. Sometimes an employee's earnings are not enough to pay all his or her garnishments. If there is not enough allowable disposable income, the allocation method of the employee's principal place of employment (State of official duty station) must be followed to determine how much to pay for each order. States require employers to use one of two methods to allocate withheld payments among multiple withholding orders:

1. Prorate by allocating a percentage to each order based on the total dollar amount of current support ordered; or
2. Share equally by dividing the allowable disposable income by the total number of orders.

The majority of States instruct employers to prorate by allocating a percentage. General information about child support calculations and examples of calculations in both situations is provided below.

Multiple Income-Withholding Orders - Same Employee and Different Children

Federal regulations require that some money must be paid to each order for current support if there is more than one withholding order. In addition, States enacted laws specifying the method employers must use to allocate money toward current support due for each order. Thus, some money must be allocated toward all orders. The orders should not be paid on a “**first come, first served**” basis.

Example:

- Order A current support owed: \$ 220/biweekly
Arrears owed: \$ 50/biweekly
- Order B current support owed: \$ 200/biweekly
- Order C current support owed: \$ 180/biweekly
- Employee's disposable income: \$1000/biweekly
- Allowable disposable income: \$550

Because employee is supporting more than one family and is in arrears, the CCPA limit is 55% x disposable income (55% x \$1000 = \$550)

Withholding:

- Total current support owed: \$600/biweekly
- Total arrears owed: \$ 50/biweekly
- There is not enough allowable disposable income (\$550) to withhold the entire amount of current support due for all these orders (\$600). Nothing can be withheld to satisfy the arrearage.

Allocation Methods:

Most States require employers to use one of two methods to allocate withheld payments among multiple withholding orders:

1. Prorate by allocating a percentage to each order based on the total dollar amount of current support ordered, or
2. Share equally by dividing the allowable disposable income by the total number of orders.

Percentage Allocation

Prorate by allocating a percentage to each order based on the total dollar amount of current support orders.

- Add total current support due on all withholding orders.
- Divide each order's current support due by the total of all orders to figure each order's percentage of total.
- Withhold the percentage of allowable disposable income for each order.

Order A \$220.00 ÷ \$600 = 36.7%

Order B \$200.00 ÷ \$600 = 33.3%

Order C \$180.00 ÷ \$600 = 30.0%

Total \$600.00

Allowable disposable income (maximum that can be withheld): \$550

Order A \$550 x 36.7% = \$201.67

Order B \$550 x 33.3% = \$183.33

Order C \$550 x 30.0% = \$165.00

Total withheld \$550.00

Equal Allocation

1. Share equally by dividing the allowable disposable income by the total number of orders.

Allowable disposable income (maximum that can be withheld): \$550

3 orders for the same employee (Orders A, B and C)

Dividing by 3 (the total number of orders) would yield \$183.33 to be applied to each order. Additional calculations will be necessary because Order C requires only

\$180.00. There are at least two ways to calculate the amounts to be deducted for Orders A and B; both yield the same result:

Method 1:

1. Subtract Order C (\$180) from the total (\$550).
2. Divide the remainder (\$370) by 2 (number of remaining orders).
3. Pay \$185 each toward Orders A and B.

Method 2:

1. Subtract Order C (\$180) from \$183.33 = \$3.33.
2. Add \$1.67 apiece to the \$183.33 allocated to Orders A and B.
3. Pay \$185.00 each toward Orders A and B.

Multiple Income-Withholding Orders - Same Employee and Same Child

There should not be more than one withholding order for the same child for current support.

Note: State CSE agencies issue IWOs for arrears only that are owed to the State for a time period when welfare has been paid on behalf of the CP and child(ren). This IWO should be for arrears only and is not considered a duplicate order.

The issuing agencies, not the employer, are responsible for resolving any duplication. The employer receiving a duplicate withholding order (Same CP, same child(ren) and current support amount) should follow these steps:

- Continue to honor the first order received.
- Give your employee a copy of the second order.
- Contact the issuing agency that sent the second withholding order to provide information regarding the first order received including payment information such as the amount of the withholding and where the withholding is being sent.
- Contact the issuing agency that sent the first withholding order and provide information regarding the second order.

Frequently Asked Questions

1. *Is there a maximum amount of money that may be withheld from an employee's paycheck?*

Yes, for all income-withholdings, the upper limit on the amount that may be withheld is based on the Federal Consumer Credit Protection Act (CCPA). The Federal withholding limits for child support and alimony are based on the disposable earnings of the employee.

The Federal CCPA limit is 50% of the disposable earnings if the employee supports a second family and 60% if the employee does not support a second family. This limit increases to 55% and 65% respectively if the employee owes arrearages that are 12 weeks or more past due.

States may choose a lower limit. Check with your State to determine exact limits. (About two-thirds of the States use the Federal limits, and about one-third cap the withholding at 50% regardless of second families or arrearage amount.)

2. *How soon must employers send the child support payment that was withheld from an employee's paycheck?*

Employers need to send payment of the withheld wages within seven (7) business days, at the most, of paying wages to the employee. The State where the employer is located may set a shorter time limit for submitting the payment.

3. *What should the employer do if the employee tells the employer the withholding is for the wrong amount or that income should not be withheld?*

The employee should contact the State child support enforcement agency if he/she disputes the order. The employer should make it clear that by law, until the employer is otherwise notified, the employer must comply with the terms of the withholding order as issued.

4. *May employers combine the child support payments from several employees into one check?*

Yes, employers may send one check each pay period to cover all child support withholdings for that pay period if:

- They are all being sent to the same receiving agency (State Disbursement Unit), and
- The employer itemizes the amount withheld from each employee, the date each amount was withheld, and a required identifier such as the case number.

5. *How will the employer know when to stop income withholding for an employee?*

The employer should continue withholding until the Child Support Enforcement Agency or court notifies the employer to change or stop the withholding.

6. *Income withholding requires extra paperwork for the employer. May the employer charge a processing fee to the employee?*

Most States allow the employer to charge the employee an administrative fee for processing the income withholding. Employers may contact their Child Support Enforcement Agency to learn what the administrative fee is in their State. Note that the total amount the employer withholds for child support *plus fees* may not exceed the maximum amount permitted under the Federal Consumer Credit Protection Act (CCPA).

7. *What if the fee plus the child support payment exceeds the maximum allowable amount under CCPA?*

If the fee plus the child support exceeds the maximum amount allowed to be withheld under the CCPA, the employer may take the entire amount of its administrative fee and make the child support payment less than the amount in the notice. The amount of support that was not paid (because the employer deducted the administrative fee) becomes part of the arrears owed by the noncustodial parent.

8. *The employer received an income-withholding order from a Child Support Enforcement Agency in another State. Must the employer send payments directly to the other State?*

Yes. Under the Uniform Interstate Family Support Act (UIFSA), employers are required to honor an income-withholding order from another State as long as the order appears to be “regular on its face.”

9. *How does the employer handle child support withholding when the employee already has garnishments or other income attachments against the paycheck?*

Child support withholdings take priority over all other claims against the same wages except Federal tax liens that were entered **before** the child support order was established. When there are garnishments or income attachments other than Federal tax liens, the employer may honor the garnishments or income attachments only after satisfying the child support obligation (to the CCPA maximum allowed limit), provided the allowable limit for that type of garnishment has not already been exhausted by the amount of the child support withheld.

10. *What should the employer do if it has received both an IRS levy and a child support income-withholding order/notice for an employee?*

The employer should notify the Child Support Enforcement Agency that a Federal tax (IRS) levy was received in addition to the income-withholding order/notice. The Child Support Enforcement Agency can inform the employer if the underlying child support

order was in fact established prior to the date that the IRS levy was entered. If the underlying order was not established prior to the IRS levy, the child support agency can then contact the IRS to determine if the levy may be modified to allow withholding of any child support.