

CALIFORNIA DEPARTMENT OF CHILD SUPPORT SERVICES

P.O. Box 419064, Rancho Cordova, CA 95741-9064



July 1, 2002

CSS LETTER: 02-13

ALL IV-D DIRECTORS
 ALL COUNTY ADMINISTRATIVE OFFICERS
 ALL BOARDS OF SUPERVISORS

SUBJECT: LEGAL DATE OF COLLECTION FOR WAGE WITHHOLDINGS

The purpose of this letter is to clarify the process for determining the legal date of collection in a wage withholding.

The instructions on the national Order/Notice to Withhold Income for Child Support (ONtW), require the employer to report the payday/date of withholding when sending the payment to the local child support agency (LCSA). This requirement is also supported by statute under Section 5235(c) of the Family Code. Therefore, the LCSA should be using the "paydate/date of withholding" provided by the employer as the legal date of collection. The LCSA should not be using "pay period ending dates," "invoice dates," "check dates" etc., unless they have verified with the employer that those field descriptions are in fact reflective of the "paydate/date of withholding."

When the employer fails to submit the payday/date of withholding, the LCSA must reconstruct the legal date of collection. In the reconstruction process, the LCSA should compare the payment with the underlying court order dates **or** the employer's pay cycle, as reflected on the ONtW in lines 15a-d, **or** contact the employer to obtain the date. The legal date of collection is vital to proper distribution of collections and the LCSA should consider all appropriate dates in the reconstruction determination. Below is an example of how to reconstruct the payday/date of withholding.

Reason for this Transmittal

- State Law or Regulation Change
- Federal Law or Regulation Change
- Court Order or Settlement Change
- Clarification requested by One or More Counties
- Initiated by DCSS

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Example: A court order stipulates a \$300 monthly obligation, payable in two equal installments, which are due on the 1st and the 15th of the month.

An ONtW is served on the employer, which reflects the following payment amounts in the employer's pay cycle fields: \$69.23/Weekly; \$138.46/Biweekly; \$150.00 Semimonthly; and, \$300/Monthly.

The following payments were received on the following dates, but the employer fails to provide a payday/date of withholding:

April 1	=	\$150.00
April 15	=	\$150.00
May 1	=	\$150.00
May 15	=	\$150.00
May 31	=	\$150.00
June 14	=	\$150.00

A common misapplication is the May 31 payment being applied as a May collection, when, in fact, the collection is actually the June 1 payment. Employers will frequently process payroll on the last weekday of a month when the 1st falls on a weekend. In considering all appropriate dates, it is apparent the employer is making semimonthly withholdings and two payments were previously received for May. Therefore, in this situation the payday should be reconstructed to June 1.

The reconstruction can be supported by the underlying court order, which provides for payments due on the 1st and the 15th, **or** the reconstruction can be supported by the employer's semimonthly pay cycle, which is indicated on the ONtW in lines 15a-d. Since the LCSA could identify the employer's pay cycle as semimonthly, and the collection for May is satisfied, the funds should appropriately be applied to the June obligation.

Finally, the LCSA should work with employers to ensure that required data are accurately submitted with the payment.

If you have any questions or concerns regarding this matter, please contact Tonya Crawford-Corage, Manager, Financial Management Policy Unit at (916) 464-5224.

Sincerely,

FOR
PATRIC B. ASHBY
Deputy Director
Child Support Services Division