

MODULE 4: INCOME-WITHHOLDING

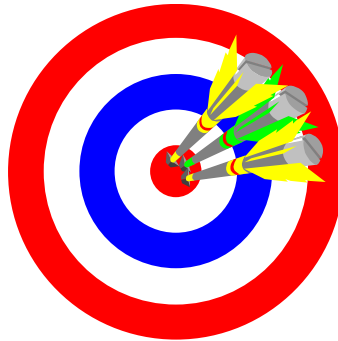
TRAINING NOTES

Module 4 Objectives - Income Withholding

- Calculate child support withholding
- Calculate allowable disposable income
- Prioritize withholdings
- Describe medical support requirements
- Determine when child support comes first

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4.1 MODULE OBJECTIVES



At the end of this module, you will be able to:


- Calculate the correct amount of child and/or medical support for withholding.
- Calculate the allowable disposable income in a case exercise.
- Prioritize payment processing when multiple child support income-withholding orders and/or garnishments and levies are involved.
- Describe the employer's requirements in handling medical support orders, and in providing medical insurance to dependents of its employees.
- Determine when child support income-withholding orders take precedence over other garnishments and withholdings.

TRAINING NOTES

- Income-withholding is the **single most effective** tool for collecting child support. **All cases are now subject** to income-withholding unless the two parties (custodial and non-custodial) agree to other payment arrangements, and no delinquency occurs. Also, income-withholding is not required for the self-employed.
- Income-withholding is also called: wage withholding, wage assignment, income deduction, withholding from earnings.
- Income-withholding is required by law in almost all cases, and **does not imply delinquency** on the part of the non-custodial parent.
- Garnishments for child support are **different** from other kinds of garnishments.
- Hand-out 2 in the Appendix provides Title 5, Volume 1 of the Code of Federal Regulations (OPM regs), listing the periodic benefits from which child support can be deducted. (“Compensation for death” includes a monthly compensation for death from injury sustained in performance of duty and certain funeral & burial expenses.)
- If participants include Social Security Administration or Veterans’ Administration, refer them to Chapter II of *Working with Federal Agencies*, sections entitled, “Income-withholding from Federal Benefit Programs,” “Income-withholding from Federal Disability Benefits,” and “Garnishment of Veterans’ Benefits.”

Income Withholding

- **What:** garnishment for child support owed
- **Why:** single most effective collection tool



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Income Withholding

- **Income:** “any periodic form of payment due to an individual, regardless of source, including wages and salaries, commissions, bonuses, workers’ compensation, disability, payments pursuant to a pension or retirement program, and interest.”

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Income Withholding

- **Federal benefits considered income:**
 1. Periodic benefits
 2. Retirement benefits
 3. Retirement contribution refunds
 4. Workers’ compensation
 5. Compensation for death
 6. Other benefits

4.2 INCOME-WITHHOLDING FOR FEDERAL EMPLOYEES

- **What:**
 - A garnishment for child support owed, called “income-withholding order.” The employer deducts the specified amount each pay period and generally sends it to the state child support enforcement State Disbursement Unit (central payment processing site).
 - Income is defined as “any periodic form of payment due to an individual, regardless of source, including wages and salaries, commissions, bonuses, workers’ compensation, disability, payments pursuant to a pension or retirement program, and interest.”
 - For federal employees, this is the list of federal benefits from which child support can be deducted:
 - (1) Periodic benefits
 - a. Pensions;
 - b. Retirement benefits; (**covered in detail in “Income-withholding When the Employee is Retired,” Module 6**)
 - c. Retired/retainer pay;
 - d. Annuities; and
 - e. Dependents’ or survivors’ benefits when payable to the obligor;
 - (2) Refunds of retirement contributions where an application has been filed;
 - (3) Amounts received under any federal program for compensation for work injuries;
 - (4) Benefits received under the Longshoremen’s and Harbor Workers’ Compensation Act.
 - (5) Compensation for death under any federal program, including death gratuities.

Included are:

Social Security Administration benefits (but **not** SSI benefits)
 Veterans Affairs (in certain instances)
 Railroad Retirement Board
 Black Lung


- Per OPM regulations (5 CFR 581), cash awards, including performance-based cash awards, are considered income, as is any payment for accrued leave.

TRAINING NOTES

- The definition of **income** is set forth in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. This expanded the definition of income beyond wages.
- **Bonuses and Lump Sums** – The PRWORA definition of income includes “bonuses,” insofar as they are paid on a periodic basis (i.e., an annual Christmas bonus), but there is no **federal** definition of “lump sums” applicable to child support withholding. **State laws may have a broader definition of income, which includes lump sums. If that is the case, Consumer Credit Protection Act (CCPA) limits would apply.** State laws govern withholding from lump sum amounts (for example, a payout from an insurance settlement; a one-time “employee of the year” award, etc.) If lump sums are not income under the state or federal definition, they are not subject to CCPA withholding limits and can be taken 100%, depending on state law.
- The Order/Notice to Withhold Income for Child Support does not have to be “served” on the employer, but may be sent by first-class or certified mail, by fax or by hand, as permitted by state law.
- The **Uniform Interstate Family Support Act (UIFSA)**, as adopted by each state, requires employers to accept direct income-withholding orders/notices from across state lines. Because **interstate cases** are the most difficult to collect, and comprise nearly 30 percent of all child support cases, the withholding order/notice standardizes the withholding process around the country.

Income-Withholding

- **How**
 - usually issued by child support agency
 - standardized “Order/Notice to Withhold Income for Child Support” form

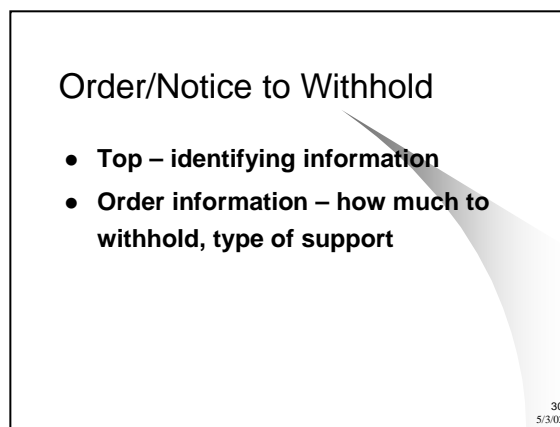


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- **How:**
 - An income-withholding order/notice will usually be issued by the child support enforcement agency (but may be issued by a judge at the time the underlying child support order is entered).
 - A standardized form entitled, “**Order/Notice to Withhold Income for Child Support,**” is now required for use in all states. This form includes information about the case (where the case is from, who the people are, and case-identifying information).

TRAINING NOTES

- Ask participants to turn to **Hand-Out #3, Order/Notice to Withhold Income for Child Support**. This form is also available on the web at <http://www.acf.hhs.gov/programs/cse/forms/>
- The **top of the form** contains information about where the form is from and to whom it applies.
- Note that **medical support** can be ordered on this form. See *ORDER INFORMATION* where it states, “If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available through the employee’s/obligor’s employment.”
- Explain that the check box about whether **arrears are 12 weeks or greater** is important in determining Consumer Credit Protection Act limits on withholding. To be discussed in more detail in the next section.
- Note that the agency does **not** have to change its payroll cycle to adjust to the child support withholding; it works the other way around (child support withholding is adjusted to fit employer’s payroll cycle).
- If you receive withholding orders from **more than one issuing agency/party for the same custodial family**, be sure to contact all state agencies involved as soon as possible (*something is wrong!*). Continue to honor the first order that you received until and unless you receive official notice that a determination has been made that a different order should be honored. It is not the employer’s responsibility to figure out which order is the one to be followed (you may hear this referred to as the “controlling order”).



Hand-Out 3: ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT Form is also available at www.acf.dhhs.gov/programs/cse/forms/

- **Top of Form**

This section of the form contains:

- Identifying information
- Type of Order/Notice (original; amended; terminated)

Form may be amended if:

- Current support is all paid and only arrears are due,
- The arrears are paid in full and only current support is due, or
- The order was modified to change the amount of support due.

Form may be terminated if child has reached age of majority (i.e., 18 or 21); child has died; or for other reasons.

It is not the employer's responsibility to keep track of arrears. An arrears is the unpaid current support previously due. The child support agency will send an amended order/notice when withholding for arrears should stop.

- **Order Information**

- This section provides information about what amount should be withheld. It provides totals, then breaks down payments to accommodate different payroll cycles. It includes current support, arrears, medical support and other data (such as court fees).

TRAINING NOTES

REMITTANCE INFORMATION:

- Even though it may seem confusing that the order/notice should be followed for some things, and not for others, it is really just a matter of common sense:
 - The law of the **ISSUING STATE** must be followed for things that only the issuing state would know, such as where to send the payment, how much the payment should be and whether or not medical support is ordered.
 - The law of the **EMPLOYEE'S OFFICIAL DUTY STATION (or principal place of employment)** must be followed for things that pertain to the employer's tasks, such as when to begin withholding, whether an administrative fee can be imposed, and the maximum amount to withhold.
- The intent here is to make the employer's job easier, since most employees will work in the employer's state, and the employer will be familiar with and can easily apply the same laws for each withholding order.
- **If the employer fails to comply with an order issued by its own state or another state, there are mandatory fines that apply under the law of the employer's state.**
- Employers may charge their employees a minimal processing fee for handling the child support withholding. The amount of the fee is governed by state law and varies from state-to-state.
- The signature of official(s) authorizing the Order/Notice "may be optional only if the Order/Notice includes the name and title of an official of the state or local IV-D agency and a signature of the official is not required by state law" (per the form instructions).

Order/Notice to Withhold

- **Remittance information:**
 - When to withhold
 - When to remit
 - How to allocate
 - Administrative fee
 - Maximum that can be withheld
(law of official duty station state)

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- **Remittance Information**

This section gives you the information needed to make payments. Information filled in the blanks follows the state law of the issuing state, because that is usually the state where the employee works. However, the employer must always follow the law of the **employee's official duty station (principal place of employment)** to determine:

- When to begin withholding,
- When to remit payments following date of withholding,
- Maximum that can be withheld (subject to state Consumer Credit Protection Act [CCPA] limits),
- How to prioritize withholdings,
- How to allocate withholding among orders received for more than one family of the same employee,
- Administrative fee of employer, or
- Other terms and conditions that may be set by state law.

The rest of the Remittance Section provides information about transferring the payment to the person or agency designated to receive the payments.

- **Remember:**

Always comply with the terms of the order/notice from the **issuing state** for:

- Duration and amount of child support, current and arrears,
- Person/agency designated to receive the payments,
- Payment of fees and/or costs charged by the child support enforcement agency, issuing court and custodial party's attorney, or
- Medical support terms.

TRAINING NOTES

Income Withholding

- **Where:** from any state
- **When:** within seven days OR LESS
- **Why:** over 70% of all collections



Federal Addresses for Withholding

- **Agency agent contact information published once a year in *Federal Register***
- **Notify OPM by end of calendar year to make changes**



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WHERE:

- An income-withholding order may come from within the employer’s state, or directly from another state. If from another state, it is called “direct income-withholding” because it comes directly from another state to the employer, rather than going through the child support enforcement agency in the employer’s state.

- **When:**
 - Withheld child support payments should be sent within seven (7) business days of wage payments to the employee. *Some states have set a shorter time limit for making payment.*

- **Why:**
 - This is the single most effective tool for collecting child support from non-custodial parents. It brings in over 70 percent of all monies collected.

- **Federal Addresses for Withholding:**
 - State child support agencies send income-withholding orders to the designated agent of a federal agency.

 - The title, mailing address and telephone number of the agents is published each spring in the *Federal Register* (also, 5 CFR Parts 581 and 582).

 - Any changes should be sent to OPM by the end of the calendar year for publication in the spring.

 - Also available at http://www.acf.hhs.gov/programs/cse/newhire/contacts/iw_fedcontacts.htm


TRAINING NOTES

What to do when an order/notice to withhold income for child support is received:

- Note the date of receipt. This is important because the employer is responsible for taking action within certain timeframes (i.e., when to begin withholding).
- Most (if not all) federal agencies require that a copy of the withholding order be given to the employee. A copy of **all interstate** withholding orders must be given to employees.
- From a practical standpoint, giving a copy of the withholding order to the employee helps eliminate nasty surprises on the next payday.
- “**Regular on its face**” is simply a legal term that means you should look at the document and use common sense; if the document looks like an official legal document, it is considered “regular on its face.”
- And, if it does **not seem regular on its face**, or contains substantive errors, you may return it to the sender with a clear explanation as to why it is being returned.

Complying with the Order

- Document date of receipt
- Copy to employee
- “Regular on its face?”
- Follow the terms



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4.3 COMPLYING WITH THE INCOME-WITHHOLDING ORDER FOR CHILD AND MEDICAL SUPPORT

The employer receives an Order/Notice to Withhold Income for Child Support.

1. Document the date of receipt.
2. In interstate cases (and intrastate cases, whenever feasible), give a copy of the Order/Notice to your employee.
3. Determine if the order is “regular on its face.”
4. Follow the terms of the order.

TRAINING NOTES

- Review the brief case study of Jacob and Bridget Astor.
- Ask participants to read the Order/Notice on their own, and then complete the information in their manuals.

DFW's next payday 5/17/02

Date of DFW's first withholding for Jacob 5/17/02

Withheld payment must be sent to Nebraska by 5/23/02 (can allow up to 4 business days, since the DFW agency will send it electronically)

DFW charges an administrative fee of \$5.00 per income-withholding (per Virginia law).

How much should DFW withhold for child support?

$(\$100/\text{week} \times 2) + \$5.00 = \$205.00$, since this payroll is biweekly.

Exercise

- Withholding order received 5/6/02
- Next payday is 5/17/02
- \$100 weekly support due, \$800 weekly gross pay
- Withhold \$_____ on _____ and send in by _____?

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Exercise: Sample Case for Income-withholding

Jacob Astor married Bridget Quincy in November 1992. After eight years of marriage, the Astors decided to divorce. Their son, Frank, continued to live with his mother in Lincoln, Nebraska after the separation.

In May 2000, Jacob was ordered to pay \$100 each week in child support. After the divorce, Jacob moved to Richmond, Virginia.

In May 2002, an Order/Notice to Withhold Income for Child Support was sent from Nebraska to his new employer in Richmond, the U.S. Department of Fine Works (DFW).

DFW received the Order/Notice on 5/6/02.

DFW's payroll is biweekly and the next payday is 5/17/02.

Please complete:

Date of DFW's first withholding for Jacob _____

Withheld payment must be sent to Nebraska by _____

DFW charges an administrative fee of \$5.00 per income-withholding. Jacob's weekly gross pay is \$800.00. Assume no more than 30 percent of gross pay is taken for mandatory deductions.


Based on what we've covered so far, how much should DFW withhold for child support on the next payday? _____

TRAINING NOTES

- The CCPA is a federal law that provides a minimum level of protection to an employee so that his entire paycheck cannot be withheld (he has to have something to live on!). Some states provide even more protection than the federal law, but all must adopt the minimum CCPA limits.
- The **CCPA limits** are those allowed by state law -- the state that is the **employee's official duty station**.
- Calculating the allowable disposable income is a very simple two-step process: determining the disposable income and applying the CCPA limit.
- Allowable disposable income (calculated for *weekly* income) is also known as Aggregate Disposable Weekly Earnings, or ADWE. This term is used in the Order/Notice to Withhold Income for Child Support.
- What is the difference between **allowable disposable income** and **net pay**? Net pay is the take-home pay, but may include non-mandatory deductions.
- Health insurance premiums are allowed as a deduction for federal employees – most states do not allow this deduction for private sector employees!
- Thrift Savings Plan (TSP) contributions are considered mandatory deductions for federal employees under FERS, even though TSP contributions are voluntary, in an amount the employee chooses. However, TSP contributions are not mandatory deductions for federal employees under CSRS. For federal employees covered under CSRS, the CSRS contributions are considered mandatory deductions. [TSP for the federal employee corresponds to a 401(k) plan for the private sector employee.]

Calculating Disposable Income


- **What**
 - Disposable income
 - Allowable disposable income (CCPA)
- **Why**
 - Child support can only be withheld from **allowable** disposable income
- **How**
 - Take mandatory deductions
 - Apply CCPA percentage



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Calculating Disposable Income

- **Mandatory deductions for Federal employees**
 - Monies owed to U.S. Government
 - Fed employment taxes, fines, forfeitures ordered by court martial
 - Fed, state, local income taxes (including FICA & Medicare)
 - Retirement contributions (including TSP)
 - Health insurance premiums
 - Life insurance premiums



4.4 CALCULATING DISPOSABLE INCOME FOR FEDERAL EMPLOYEES

- **What:**

- **Disposable income** is the amount of earnings remaining after subtracting certain mandatory deductions from an employee's gross pay.
- **Allowable disposable income** is simply a percentage of disposable income, and is the amount actually subject to child support withholding.

The "certain mandatory deductions" are different for federal employees and are as follows:

- Monies owed by the individual to the U.S. Government
- Federal employment taxes, fines, and forfeitures ordered by military court-martial
- Federal, state, and local income taxes as required by law (including FICA and Medicare)
- Health insurance premiums
- Retirement contributions including Old Age, Survivor, and Disability Insurance (OASDI) amounts and Thrift Savings Plan (TSP) contributions (but not amounts deducted for TSP loan repayments)
- Life insurance premiums (but not including contributions for supplementary coverage).

- **Why:**

- Child support can only be withheld from allowable disposable income.

- **How:**

- Allowable disposable income is calculated by applying the CCPA limits permitted by state law.
 1. Gross pay minus mandatory deductions = disposable income
 2. Disposable income times the CCPA limit = allowable disposable income
- The allowable disposable income is the maximum available for child support withholding.

TRAINING NOTES

- It is the employer's responsibility to withhold within the limits set by the state CCPA law. It is recommended that withholding be made according to the **higher** percentage, unless the employer has documentation that shows the employee is indeed supporting a second family. The existence of a second child support order for a different child (and CP) does stand as evidence of a second family. Remember that a child support agency in one state may not even know that the NCP has a child support order issued for a different family in a different state.
- If you wanted to **verify** support of a second spouse or child, you could ask to see a spousal or child support order, a birth certificate, or a marriage certificate. The employee's tax or health insurance records might also prove that he has dependents other than those named in the child support withholding order. An affidavit from the employee could also be obtained.
- Although the employer is more likely to know if the employee supports a second family, you may ask for guidance from the child support agency when in doubt.

Calculating Disposable Income

- **Federal Consumer Credit Protection Act limits:**
 - 60% - single, no arrears or < 12 wks
 - 50% - 2nd family, no arrears or < 12 wks
 - 65% - single, 12+ wks in arrears
 - 55% - 2nd family, 12+ wks in arrears

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- **Federal Consumer Credit Protection Act limits:**

This law sets limits on withholding a non-custodial parent's disposable income based on his/her current family setting and payment history:

- 50% Has a second family, with no arrearage or < 12 weeks in arrears
- 60% Single, with no arrearage or < 12 weeks in arrears
- 55% Has a second family, and over 12 weeks in arrears
- 65% Single, and is over 12 weeks in arrears

Disposable income times the CCPA limit = Allowable disposable income.

There are no set rules or regulations to guide the employer in determining whether your employee is supporting a second family.

Title III of the Consumer Credit Protection Act (15 USC Sec. 1671 et seq; 29 CFR 870) simply states "...if the employee is supporting a spouse **or** child..." other than the child or spouse for whom support is being sought, then the existence of a second family is established and a lower percentage should be withheld.

The employee does not have to be living with the second family to be supporting them; a second child support order indicates that a second family is being supported.

TRAINING NOTES

- According to the Order/Notice to Withhold, Jacob Astor owes a total of \$115 per month, and he is paid once a month, so we do not have to worry about the different amounts due for different pay cycles.
- Although the Order/Notice was issued in Nebraska, Mr. Jones works in Virginia, so Virginia law applies to the allowable disposable income calculation.

Jacob's gross weekly pay: 800.00

Subtract mandatory deductions: 175.00

Federal/state/local taxes, FICA plus health insurance.

Health insurance is considered a mandatory deduction for federal employees.

Jacob's disposable income for 1 week 625.00

Biweekly disposable income 1,250.00

- Remember that the mandatory deductions listed for Nebraska and Virginia do not apply to federal employees. Refer back to Section 4.2 (page 4-5) for the list of deductions allowed for federal employees.

Exercise: Disposable Income

- Jacob's gross weekly pay \$800.00
- Less mandatory deductions -175.00
- Jacob's disposable income 625.00
- x 2
- BIWEEKLY disposable 1,250.00

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Exercise: Calculating Allowable Disposable Income

Let's go back to Jacob Astor, working for DFW in Richmond, and owing \$100/week in child support.

Now assume that Jacob is 4 months behind on his payments and was ordered to pay \$25/week in arrears. His total due is \$125/week. Use the following information to first calculate Jacob Astor's **disposable income**.

- **Nebraska:**

- Mandatory deductions from pay: federal, state, local income taxes, FICA
- Exceptions to federal CCPA limits: none

- **Virginia:**

- Mandatory deductions from pay: federal, state, local income taxes, FICA
- Exceptions to federal CCPA limits: none
- Virginia follows federal limits – with no second family and more than 12 weeks in arrears, the CCPA limit for Jacob is 65 percent, the same cap that is specified in the Order/Notice.

- DFW's payday is every other Friday.

- The following deductions are taken from Jacob's weekly gross pay of \$800.00:

– Federal/state/local taxes	95.00
– FICA	45.00
– Medicare	10.00
– Health insurance	25.00

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1. Jacob's gross weekly pay: _____
 2. Subtract mandatory deductions: _____
 3. Jacob's disposable income: _____
 4. Biweekly disposable income: _____

TRAINING NOTES

- 1. Biweekly disposable income: \$1,250.00
- 2. Multiplied by CCPA limit: 65%
- 3. Maximum withholding allowed: \$ 812.50
- Is there sufficient money to withhold the entire amount ordered for Jacob FOR A 2-WEEK PAY PERIOD? (\$200 current + \$50 arrears + \$5.00 administrative fee = \$255.00)? YES
- If Jacob worked in a different state, however, the cap might be lower even though the Order/Notice specifies 65 percent!

Exercise: Allowable Disposable Income

- Biweekly disposable \$1,250.00
- Apply CCPA limit x 65%
- Allowable disposable income \$ 812.50

Current support	\$200	(2 weeks)
Arrears	50	
Admin. fee	<u>5</u>	
	\$255	

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Exercise: Calculating Maximum Withholding

Now calculate the **allowable disposable income** (or, “maximum withholding”) for this biweekly pay period by applying the Consumer Credit Protection Act limits to Jacob’s disposable income.

In applying CCPA limits, follow the state law for Jacob’s official duty station state.

1. Biweekly disposable income: _____
2. Multiplied by CCPA limit: _____%
3. Maximum withholding allowed: _____

Is there sufficient money to withhold the entire amount ordered for Jacob?

Current support _____

Arrears _____

Admin. fee _____

TOTAL: _____


YES or NO?

TRAINING NOTES

- Withheld child support payments are credited based on the employer's payday OR date of receipt by the receiving agency, which **may result in a "temporary" arrearage.**
 - Work on next exercise to illustrate.
- Over the entire year, the full \$4,800 will be withheld (some months will have five weekly payrolls instead of just 4), but until there is a month with five paychecks, the agency records might show an arrearage. In a month of five paychecks, the agency records an overpayment.
- Some states charge interest on arrearages.
- Nevertheless, employers are **not** required to change payroll cycles to accommodate an income-withholding order/notice.

Calculating Disposable Income

- Tracking arrears: NOT the employer's responsibility!



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How states calculate arrears

Annual obligation	\$4,800.00
Monthly (4800 ÷ 12)	400.00
Weekly (4800 ÷ 52)	92.31

4-week month:	$92.31 \times 4 = \$369.23$
5-week month:	$92.31 \times 5 = \$461.54$

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4.5 A NOTE ABOUT ARREARS

The child support enforcement agency, and not the employer, is responsible for calculating arrears, or keeping track of payments toward the arrears.

Some states calculate interest on unpaid child support. Depending upon how long ago these underpayments occurred, the interest owed could be a sizable amount.

Example:

Annual child support obligation is \$4,800.00.

Calculate monthly amount: $4800 \div 12 = \$400$

Calculate weekly amount: $4800 \div 52 = \$92.31$

If the weekly amount is withheld for a month (let's say February) with just four weeks, how much is withheld that month? $4 \times 92.31 = \$369.23$

If the weekly amount is withheld for a month (let's say October) with five weeks, how much is withheld that month? $5 \times 92.31 = \$461.54$


In which month will there be an apparent shortfall from the monthly amount due? February ($\$369 < \400)

TRAINING NOTES

- Consider how this allowance is treated – **for tax purposes**. If the allowance is taxable and is not considered imputed income, then it is subject to child support withholding. If it is considered imputed income (for example, the employee is given a prepaid bus pass), then it is not subject to child support withholding.

Imputed Income

- **What:** non-cash fringe benefits
- **How:**
 - Deduct before calculating allowable disposable income



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The image contains a slide titled "Imputed Income". It lists two bullet points: "What: non-cash fringe benefits" and "How: Deduct before calculating allowable disposable income". To the right of the text is an illustration of a black car parked next to a white "P" parking sign. A light beam from the top right corner of the slide illuminates the car and sign. In the bottom right corner of the slide, the number "30" and the date "1/11/02" are visible.

4.6 IMPUTED INCOME

- **What:**
- Imputed income is considered as fringe benefits provided to employees that must be counted as additional income subject to taxation, but not counted as additional income for calculation of disposable income for child support purposes.
- Examples of imputed income:
 - Parking garage fees
 - Non-qualified tuition reimbursement
 - Travel incentive (TIA)
- **How:**
- For income tax purposes, the cash value of such fringe benefits is added to the employee's regular wages; taxes are increased and withheld on the increased amount.
- In calculating disposable earnings for child support, do not include the imputed income. Imputed income must first be deducted from the gross pay before disposable income (and then allowable disposable income) can be calculated for child support purposes.

TRAINING NOTES

- Walk class through the following exercise:

Gross pay	\$800.00
Add imputed income parking garage fees	\$200.00
Taxable earnings	\$1,000.00
Deduct federal/state/local taxes	(220.00)
Net pay	\$780.00
Subtract imputed income from net pay	<u>(200.00)</u>
Amount of disposable earnings for child support	\$580.00

Exercise: Imputed Income	
Gross pay	\$800
Imputed income	<u>+200</u>
Taxable income:	\$1,000
Deduct taxes	<u>- 220</u>
Net pay:	<u>\$780</u>
Subtract imputed	<u>- 200</u>
Disposable income:	<u>\$580</u>
(for child support purposes)	

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Exercise: Imputed Income


Gross pay	\$800.00
Add imputed income: parking garage fees	\$200.00
Taxable earnings	\$_____
Deduct federal/state/local taxes	(220.00)
Net pay	\$_____
Subtract imputed income from net pay	(_____)
Amt of disposable earnings for child support	\$_____

TRAINING NOTES

- Remind the class that the definition of child (and medical) support was covered in Section 2.2.
- The State Children's Health Insurance Program (SCHIP):
 - Created as part of Balanced Budget Act of 1997.
 - \$4.8 billion annual federal grant program that helps states cover uninsured children; for kids in families with income too high for Medicaid but too low to afford private coverage.
 - Visit website at www.hcfa.gov/init/children.htm

Withholding for Medical Support

- **What**
 - CP provides coverage
 - NCP provides coverage
 - NCP provides coverage through private plan
 - Child enrolled in plan solely for children
 - Child enrolled in state CHIP



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4.7 WITHHOLDING FOR MEDICAL SUPPORT

- **What:**
 - There are five basic types of health care coverage for a child who does not live with the providing parent, or non-custodial parent (NCP):
 - The custodial parent (CP) maintains coverage through his or her employer plan; NCP may be required in the support order to pay for this coverage.
 - NCP maintains coverage through his or her employer plan; employer withholds premiums for the child’s care, or “medical support,” from the NCP’s pay.
 - NCP maintains coverage through a private plan and pays the premiums directly. Employer does not withhold medical support.
 - Child is enrolled in a plan designed solely for coverage of children. Employer withholds premiums from NCP’s pay, and sends them to the child support enforcement agency to be paid to the child’s insurer.
 - Child is enrolled in SCHIP because neither parent has access to health care coverage and the child is not eligible for Medicaid, or the child is covered by Medicaid.


Medical support provides health care coverage for a child through the non-custodial parent’s health care plan at work. To comply with a medical support order, an employer must withhold employee contributions due under a group health plan in connection with health care coverage for the employee’s child.

TRAINING NOTES

- A federal agency does have the authority to enroll an employee and his dependents if the employee fails to provide the coverage pursuant to a medical support order (under Public Law 106-394).

Withholding for Medical Support

- **When**
 - Your employee is eligible and enrolled
- **How**
 - NMSN (or QMCSO)
 - Disregard “open enrollment” season
 - You withhold child’s premiums per plan administrator



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- **When:**

Employers must provide medical insurance coverage to an employee's child per a child support order when the employee is eligible and enrolls in the family care coverage.

Under the Federal Employees Health Benefits Program (FEHBP) regulations, a child support order that includes medical support constitutes a "change in family coverage," granting an employee an opportunity to change health plan coverage without waiting for the next open enrollment period.

- **How:**

When directed by a National Medical Support Notice (NMSN), or a medical support order from a court or child support enforcement agency, or Qualified Medical Child Support Order (QMCSO), and family coverage is available, the employer must:

- Provide immediate coverage without regard to "open enrollment season,"
- Provide a method for the CP to enroll the child in the plan, or
- Deduct premiums from the employee's pay (within CCPA limits).

TRAINING NOTES

The following information is background for the trainer and does not need to be covered unless questions are raised.

- The Omnibus Budget Reconciliation Act of 1993 (OBRA '93) made big changes in medical insurance requirements placed on employers and insurance companies; OBRA created **Qualified Medical Child Support Orders (QMCSOs)** by requiring both "insured" and "self-insured" plans under ERISA to honor QMCSOs. An employer must honor a QMCSO.

In an effort to standardize the medical withholding format for employers, all IV-D agencies must use a new **National Medical Support Notice (NMSN)**. The QMCSO may still be used in some private child support cases (i.e., by private attorneys).

- The NMSN is intended to be a "one size fits all" notice, applicable to both ERISA-covered employers and those who are not subject to ERISA.

[Background information for trainer:] Both the QMCSO and the NMSN are designed to respond to the specific statutory requirements of ERISA (Employee Retirement Income Security Act of 1974). The QMCSO and the NMSN come into play only if the health care plan under which coverage is sought happens to be subject to ERISA, and the majority of plans are ERISA-covered.

Withholding for Medical Support

- **Qualified Medical Child Support Order (QMCSO) will be replaced by National Medical Support Notice (NMSN) for child support agencies**
- **Private attorneys may use NMSN or QMCSO**

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- **Qualified Medical Child Support Orders (QMCSOs)**
 - A **QMCSO** is a medical child support order that creates or recognizes the right of an alternate recipient to benefits for which a participant or beneficiary is eligible under a group health plan. It must include certain information and meet other statutory requirements.
 - An **alternate recipient** is any child of a group health plan participant who is recognized as having a right to enrollment through that participant (the child's parent).
 - A medical child support order is deemed "qualified" if it provides:
 1. Name and last known mailing address of participant (employee)
 2. Name and address of alternate recipient (child or designated agency)
 - if there is a danger of domestic violence or abuse to the custodial parent and/or the child(ren), the IV-D agency may substitute the name of an official as well as its address for the address of the custodial parent and child(ren).
 3. Reasonable description of coverage to be provided, or a way that the type of coverage can be determined
 4. Period to which the order applies.
 - The employer must honor a **QMCSO** once the health plan administrator deems it qualified.
 - The **NMSN**, a new standardized form, constitutes a QMCSO because it contains all the necessary elements of a QMCSO and therefore can be used in lieu of a QMCSO.

TRAINING NOTES

- HOW MANY OF YOU CURRENTLY HANDLE MEDICAL SUPPORT? This section may be covered briefly if inapplicable to participants.
- Ask participants to turn to **Hand-out #4, National Medical Support Notice**, and walk them through the four parts.
- At the request of employers, the NMSN was developed to help standardize the process of medical support.
- The new NMSN constitutes a QMCSO (it is equivalent to a QMCSO), so employers will see fewer QMCSOs over time. The NMSN final rule neither requires nor prohibits use of the NMSN by private attorneys. Some private attorneys may continue using QMCSOs.
- The new NMSN constitutes a “change in family coverage” and there is no need to wait for open enrollment period to enroll the employee’s dependent child.
- A federal agency has the authority to enroll a child even if the employee fails to voluntarily provide the coverage. In other words, the agency can go against the employee’s wishes in order to ensure medical coverage for the ordered child.
- The NMSN was in use in only a handful of states by the end of 2001, but many states intend to implement its use by July 2002, after enactment of required legislation.


National Medical Support Notice

The NMSN is actually 4 different documents plus instructions to the employer and the plan administrator:

1. Part A- Notice to Withhold for Health Care Coverage
2. Employer Response (if cannot withhold)
3. Part B- Medical Support Notice to Plan Administrator
4. Plan Administrator Response to agency

Plan administrator tells employer how much to withhold

NMSN is considered a QMCSO



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NATIONAL MEDICAL SUPPORT NOTICE

As of October 1, 2001, all employers in states that passed enabling legislation were required to respond to the new National Medical Support Notice (NMSN). States that have not already begun using the NMSN must begin using the NMSN by the first day of the first quarter following the close of the first regular state legislative session that begins after October 1, 2001.

The NMSN is a “one size fits all” form to be used for enrolling and processing the dependent child(ren) of your employee who is ordered to provide medical support.

- The NMSN is actually four documents and instructions:
 - **Part A - Notice to Withhold for Health Care Coverage** is completed by the child support agency and sent to you with the rest of the packet.
 - **Employer Response** is completed within 20 business days by the employer only if insurance is unavailable, employee has been terminated, or funds are not sufficient for the coverage.
 - **Part B - Medical Support Notice to Plan Administrator.** This document should be forwarded to your health care plan administrator within 20 business days.
 - **Plan Administrator Response** is completed by the plan administrator according to the instructions and returned to the child support agency. The plan administrator notifies you of the employee contribution needed once enrollment is completed.
- There is no additional cost or change in current business practice for you.
- The NMSN will eventually replace the QMCSO for all medical support ordered by a state child support agency. Medical support set up by private attorneys could still be submitted in the form of the QMCSO.
- The NMSN will be sent out by the state child support agency, with an income-withholding order, or separately.

TRAINING NOTES

How it Works:

- The NMSN will be sent out by the state child support agency, with an income-withholding order, or separately. The issuing agency completes the first page of Part A and the first page of Part B of the NMSN.
- The employer completes the “Employer’s Response” portion of Part A and returns it to the issuing child support agency within 20 business days if:
 - the employer offers no group health plan
 - the employee is ineligible for coverage under the health plan
 - the employee has terminated employment
 - withholding limits prevent payment of the employee’s contribution to the group health plan for dependent coverage.
- The employer forwards Part B to the plan administrator within 20 business days from the date of the NMSN.
- The plan administrator :
 - completes the “Plan Administrator Response” (Part B) of the NMSN.
 - enrolls the child and lets the employer know how much to withhold from the employee to cover the contributions to the health care plan.
 - within 40 business days from the date of the NMSN, completes the response and returns it to the child support agency.
 - notifies the employee and the custodial parent of the child’s enrollment, and provides claim forms to the custodial parent within 40 business days of the date of the NMSN; or notifies the issuing agency when multiple options are available so appropriate coverage can be elected.
- If the NMSN is determined not to constitute a QMSCO, the plan administrator must complete Response 5 on the Plan Administrator Response and send it to the issuing agency and the parties within 40 business days of the date of the NMSN.
- Withholdings for both cash child support and medical support are subject to CCPA or more stringent limits set by the employee’s official duty station state.

What if:

- The employee has not earned enough money to pay out both the cash child support due and the premium due towards dependent care coverage? Which is paid first?
 - Follow the state law of the employee's official duty station state to determine how to prioritize the withholdings.
 - Note that some states require the health care plan contributions to be paid first; other states require the cash support to be paid first.
- The employee no longer works for the company?
 - The employer is required to notify the child support agency of the termination.
 - Use page 2, "Employer's Response" of Part A to report the termination.
- **Note:** An employee ordered to provide medical support will not be able to cancel his coverage on the "Employee Express" personnel kiosk.

TRAINING NOTES

- In the case of prolonged illness, a federal employee may use available annual or sick leave. Child support can still be deducted from the pay received while on extended leave.
- In the case of “leave without pay,” child support withholding would, of course, stop. The payroll agency must notify the child support agency of the employee's change in status, even if it is temporary.
- The employee may wish to continue child support payments on his own in order to avoid accrual of arrears, or he may request a downward modification of the amount of the child support obligation.
- **NOTES FOR SSA TRAINEES ONLY (IF WITHHOLDING AGAINST DISABILITY BENEFITS):**

If the income-withholding order is received while application for benefits is pending, it must be honored **retroactively** to the date of the income-withholding order.

Deductions for child support may be taken from the lump sum payment. The monthly support due (up to the CCPA limits for each monthly disability payment) can be deducted from the lump sum payment back to the disability eligibility date, or the date of the withholding order, whichever is later.

For instance, if you received the withholding order for Mr. Jones in April, and his lump sum payment was issued in August, the deduction could be made for 5 months (April – August) only. Assuming the CCPA limit applicable to Mr. Jones is 65 percent, then up to 65 percent of each monthly portion of the lump sum payment can be withheld never more than the monthly amount specified in the income-withholding order).

When the Employee is Not Working

- **When**
 - Receiving annual or sick leave, or worker's compensation
 - On “leave without pay” status
- **What**
 - Child support must be withheld from income

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4.8 INCOME-WITHHOLDING WHEN THE EMPLOYEE IS NOT WORKING

- **When:**

- Your employee may not be working because of prolonged illness or injury, and he receives annual leave, sick leave, or worker’s compensation during this time.
- Your employee is on “leave without pay” status.

- **What:**

- Child support withholding must still be made if annual leave, sick leave, or worker’s compensation is being paid. These payments are considered forms of income.
- If your employee is on “leave without pay” status, notify the issuing agency immediately about the change in your employee’s situation so it will know why you are no longer deducting child support.
- You may wish to advise your employee that he can continue to make child support payments on his own, in order to avoid accrual of arrears. He can also request a downward modification in the amount of child support owed (he should contact the issuing agency).

- **Also:**


- Refer to pages 4-5, Income-withholding for Federal Employees, for more information about withholding from “other” federal benefits, such as Social Security Administration benefits.

TRAINING NOTES

- **Normally** when an employee is being paid his or her regular earnings, the full amount of the order can usually be withheld (in fact, the employee's earnings are a big factor in determining how much support is ordered). It is only when the paycheck falls short **due to special circumstances** that the employer may not be able to withhold the full ordered amounts.
- The CCPA limits on withholding an employee's paycheck do not **forgive** the debt owed; the limits merely mean that the employee can take longer to pay off the debt.
- We will refer to state laws as "state CCPA laws." Remember, each state has either adopted the federal CCPA law, or passed its own law that affords more protection to the employee's pay.
- **Rule of Thumb:** If you receive more than one order from different states, and the orders specify a different CCPA limit to apply in determining the maximum to withhold, **apply the highest percentage if there are arrearages.** (If Order A says 55 percent and Order B says 50 percent, then withhold up to 55 percent.)
- If the amounts differ due to support of a second family rather than arrearages, apply the lower percentage (i.e., Order C says 50 percent and Order D says 60 percent, then withhold 50 percent). One state was probably unaware that your employee is supporting a second family (this order may have pre-dated the second family).
- For privacy reasons, the employer should not discuss other child support orders with a CP; simply state that there are "other claims against the income." The CP may not be aware that the NCP has fathered children with other women.

Not Enough Money!

- **What:** amount due exceeds allowable disposable income
- **When**
 - Multiple child support orders
 - Other garnishments
 - Other involuntary deductions
- **How**
 - Percentage allocation OR
 - Divided equally



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4.9 PRIORITIZING MULTIPLE DEDUCTIONS, OR WHAT DO I PAY FIRST IF THERE IS NOT ENOUGH MONEY TO GO AROUND?

- **What:**

- Sometimes an employee's earnings do not stretch far enough to pay all his or her claimants. There are specific laws governing who is to be paid first. There are also laws protecting the employee from having his or her entire paycheck turned over to a third party.
- Consumer Credit Protection Act: A federal law that serves as the minimum protection to the employee; some states have passed their own version that provides more protection to the employee's pay.

- **When:**

- Multiple child support orders are received (for different children)
- Child support orders with other garnishments (for debt)
- Child support orders with other involuntary deductions (i.e., tax levy, bankruptcy).

TRAINING NOTES

- Percentage method of allocation:**

Order A \$90.00 ÷ \$227 = 39.65%

Order B \$75.00 ÷ \$227 = 33.04%

Order C \$62.00 ÷ \$227 = 27.31%

Total: **\$227.00**

- If allowable disposable income is \$180, then Order A gets 39.65% x \$180 = \$71.37, Order B gets 33.04% x \$180 = \$59.47, etc.

- Equal method of allocation:**


Using same numbers as above, divide the allowable disposable income by the total number of orders (3).

$\$180 \div 3 = \60 can be paid to each order.

Only a few states use this method.

Percentage Method of Allocation

Order A	$\$90.00 \div \$227 = 39.65\%$
Order B	$\$75.00 \div \$227 = 33.04\%$
Order C	$\underline{\$62.00} \div \$227 = \underline{27.31\%}$
	227.00 100.00 %
Order A	$\$180 \times 39.65\% = \71.37
Order B	$\$180 \times 33.04\% = \59.47
Order C	$\$180 \times 27.31\% = \underline{\$49.16}$
	180.00



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Equal Method of Allocation

Order A	\$90.00
Order B	\$75.00
Order C	<u>\$62.00</u>
	\$227.00 but only have \$180
$\\$180 \div 3 = \\60 to each order	

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How:

- Most states use one of two methods to allocate withheld payments among multiple orders:
 1. Allocate a percentage to each order based on the total dollar amount of current support orders.
 2. Divide the total dollar amount of the orders equally by the number of orders.
- Follow the allocation method set by the employee’s official duty station state.
- **Percentage Method of Allocation (also called Prorate Method)**

Order A	\$90.00	Divided by \$227 = 39.65%
Order B	\$75.00	Divided by \$227 = 33.04%
Order C	\$62.00	Divided by \$227 = 27.31%
TOTAL	\$227.00	

Assume allowable disposable income is \$180. There is not enough to pay the full ordered total of \$227.00

Figure out the percentage of the total for each order, then take that percentage of the allowable disposable income:

Order A	\$180 x 39.65%	= \$71.37
Order B	\$180 x 33.04%	= \$59.47
Order C	\$180 x 27.31%	= \$49.16
TOTAL		\$180.00

- **Equal Method of Allocation**

Assume allowable disposable income is \$180. There are three orders, and each is paid equally. Divide \$180 by 3 = \$60 to each order.

TRAINING NOTES

Multiple Child Support Orders

- By federal law, some money must be paid to each order for current support
- Follow the state law of your employee's official duty station
- NOT "first come, first served"

4.10 MULTIPLE CHILD SUPPORT ORDERS

Federal law requires that **some money will be paid to each order for current support.**

Each state must have a method for allocation of withheld money between or among the orders, up to that state's CCPA limits.

If there is any allowable disposable income (that is, disposable income that falls within the CCPA limits for withholding) left over, then payments for **arrears** can be withheld up to the remaining balance.

- **Note:**

You may receive more than one order from different states or counties for the same child(ren). If this happens, you may follow these steps:

- Continue to honor the first order you received.
- Give your employee a copy of the second order.
- Contact the issuing agency that sent the second withholding order and inform them that you are already sending withheld payments for the same child(ren) to another jurisdiction. Provide 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 inform them about the second order you have received.

The issuing agencies must resolve the duplication.

Exercise: Applying Allocation Methods

- Fred has been ordered to pay biweekly child support for four children on four different orders as follows:

Order A \$400

Order B \$420

Order C \$390

Order D \$410

- The total ordered amount for Fred is \$_____.
- For this pay period, Fred's allowable disposable income is only \$1,200. Fred's official duty station state follows the prorate method for allocation. How much should be paid to each order?

Order A \$ _____

Order B \$ _____

Order C \$ _____

Order D \$ _____

- How much would be withheld for each order if the equal allocation method was used?

TRAINING NOTES

- USE THE FLIP CHART TO REVIEW THIS EXERCISE.
- What are the withholding limits for Arthur? 55%
- Why? He owes arrears (over 12 weeks) and the second child support order shows he is supporting a 2nd family, even though he is not living with them.

1. Disposable income for child support purposes:	\$2000.00
2. Apply CCPA limits	x __55%
3. Allowable disposable income:	\$1100.00
4. Total current support owed (add both orders - \$300+\$400)	\$700.00
5. Total arrears owed:	\$ 50.00
6. Total monthly support owed:	\$750.00

- Is there enough allowable disposable income to pay the total in line 6? **yes**
- How much of the monthly support can be paid by Arthur's employer? **The full \$750.00 that is owed. No problem this month!**
- The next exercise covers a situation where the monthly support owed **exceeds** the allowable disposable income.

Exercise: Calculating Payments Under Two Withholding Orders

Arthur was married and divorced twice. He now lives alone. He had one child with each of his wives, and he owes child support to both children. He owes \$300/month in current support and \$50/arrears for his older child (and he’s over 12 weeks in arrears). He owes \$400/month in current support for his younger child.

Arthur’s disposable income is \$2,000.00/month. The CCPA limits set by his state follow the federal CCPA limits.

What are the withholding limits for Arthur? _____%

Why? _____

HINT: Refer back to Section 4.4, Calculating Disposable Income for Federal Employees, page 4-19.

1. Disposable income for child support purposes:	\$2,000.00
2. Apply CCPA limits	x _____%
3. Allowable disposable income:	\$_____
4. Total current support owed (add both orders)	\$_____
5. Total arrears owed:	\$_____
6. Total monthly support owed:	\$_____

Is there enough allowable disposable income to pay the total in line 6?

How much of the monthly support can be paid by Arthur’s employer? \$_____

TRAINING NOTES

- USE THE FLIP CHART TO REVIEW THIS EXERCISE.

1. Disposable income for child support purposes:	\$1,000.00
2. Apply CCPA limits	x <u>55%</u>
3. Allowable disposable income:	\$ <u>550.00</u>
4. Total monthly support owed (current & arrears)	\$750.00
- Is there enough allowable disposable income to pay the total in line 4? **NO**
- How much of the monthly support can be paid by Arthur's employer? First, ask if current support can be met. The total **current support** due is \$700.00, and this can **not** be paid in full. The \$50 arrears can not be paid at all.
- The employer must first check the law of Arthur's official duty state. Let's say his state uses the percentage method of allocation.
- **Order A** \$300 divided by 700 = 43%
- **Order B** \$400 divided by 700 = 57%
- Total \$700
- Apply these percentages to the amount available for child support, the allowable disposable income (\$550):
 - \$550 x 43% = \$ 236.50 for Order A (short by \$63.50 + \$50 arrears)
 - \$550 x 57% = \$313.50 for Order B (short by \$86.50)
- \$63.50 of unpaid current support will accrue as arrears for Order A and \$86.50 of unpaid current support will accrue as arrears against Order B. The employer does not need to track the arrears; the child support enforcement agency is responsible for this.

Exercise: Calculating Payments (Again) Under Two Withholding Orders

Let's use the same example with Arthur again. Remember, he has two children, and owes \$300/month in current support and \$50/arrears for his older child, and \$400/month in current support for his younger child.

This month, Arthur's disposable income is only \$1,000.00/month.

Arthur is subject to the same withholding limits as before, 55%.

1. Disposable income for child support purposes:	\$1,000.00
2. Apply CCPA limits	x <u>55%</u>
3. Allowable disposable income:	\$_____
4. Total monthly support owed (current & arrears)	\$750.00

Is there enough allowable disposable income to pay the total in line 4?

How much of the monthly support can be paid by Arthur's employer? Use the percentage method of allocation.

TRAINING NOTES

- From 50 percent to 65 percent of disposable income can be withheld for child support versus only 25 percent of disposable income (or the excess weekly disposable income that exceeds 30 times the minimum wage earned that week if this amount is less).
- For **biweekly** disposable income, the calculation would be the difference between the income and **60 times** the minimum wage.
- Basically, the employer first withholds for child support from the allowable disposable income, and then checks to see if the child support deduction is greater than the limit allowed for garnishment withholding.
- If the child support deduction is **greater** than the limit that can be withheld for garnishment, nothing can be withheld for the garnishment. Otherwise, the **difference** between the child support deduction and garnishment limit can be withheld for the garnishment.

Child Support with Other Garnishments

- Pay child support first!
- Withhold for child support, then check to see if withheld amount is greater than the limits set for the garnishment (25% rule).



Example: Child Support + Other Garnishments

Tony owes \$90/week for child support.

Sears garnishment for \$1000.

Biweekly disposable \$700

60% of disposable \$420

Withhold full (2 wks) \$180

$$700 - 309 = 391$$

25% x 700 = 175 is lesser

BUT 175 - 180 = 0.



4.11 CHILD SUPPORT WITH OTHER GARNISHMENTS

Rule of thumb: A child support income-withholding order must be paid before all other garnishments. Note that not only do income-withholding orders take precedence over other garnishments, a lot more money can be withheld for child support than for other garnishment debt.

When you have a child support income-withholding order and a garnishment for your employee:

1) Deduct the child support withholding.

2) Determine the LESSER amount of

A. The difference between the *biweekly* disposable income (*before* child support withholding) and 60 times the minimum wage [60 x \$5.15 = \$309.00]. Note that you would calculate 30 times the minimum wage for *weekly* disposable income (30 x \$5.15=\$154.50).

- if the biweekly disposable income is LESS than \$309 (or less than \$154.50 for weekly disposable income), no withholding for garnishment can be made.

B. 25 percent of the biweekly disposable income.

3) For the garnishment, you may withhold the difference between the lesser amount figured in step (2) above and the child support deduction.

Example 1: Tony's child support withholding obligation is \$90.00/week. His biweekly disposable income is \$700. Sears serves a garnishment against Tony for a \$1,000 debt.

1) Deduct \$180 for child support from Tony's \$700 pay (Tony is single and is not in arrears, so up to 60 percent, or \$420, can be withheld for child support.)

2) A. Disposable income minus 60 times minimum wage: $700 - 309 = 391$

B. 25 percent of disposable income: $25\% \times 700 = 175$

\$175 is the LESSER of these two amounts.

TRAINING NOTES

Note that unless the employee has a very low income, you will always take 25 percent of the disposable income for the garnishment test.

**Example 2: Child Support + Other
Garnishments**

Tony owes \$70/week for child support.

Sears garnishment for \$1000.

Biweekly disposable \$1,000

60% of disposable \$ 600

Withhold full (2 wks) \$ 140

1000 – 309 = 691

25% x 1000 = 250 is lesser

**250 – 140 = 110 can be deducted for
Sears.**

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3) Difference between the allowed amount for garnishment and the child support deduction taken: $175 - 180 = 0$

The child support deduction of \$180 has already exceeded the allowed amount for garnishment, therefore NOTHING can be withheld for Tony's Sears garnishment.

Example 2: Tony's child support withholding obligation is \$70.00/week. His biweekly disposable income is \$1,000. Sears serves a garnishment against Tony for a \$1,000 debt.

1) Deduct \$140 for child support from Tony's \$1,000 pay (Tony is single and is not in arrears, so up to 60 percent, or \$600, can be withheld for child support.)

2) A. Disposable income minus 60 times minimum wage: $1000 - 309 = 691$

B. 25 percent of disposable income: $25\% \times 1000 = 250$

\$250 is the LESSER of these two amounts.

3) Difference between the allowed amount for garnishment and the child support deduction taken: $250 - 140 = 110$

You can withhold \$110 for Tony's Sears garnishment.

TRAINING NOTES

USE THE FLIP CHART FOR THIS EXERCISE.

Scenario 1: Alice's biweekly disposable income is \$400. Her income-withholding order is for \$80 per pay period (she is single and is not in arrears). J.C. Penney serves a garnishment against Alice for \$500.

1. Amount to withhold for child support: **\$80** ($400 \times 60\% = \240)
2. A. Biweekly disposable income minus 60 times minimum wage = **\$91**

$$400 - 309 = 91$$

B. 25 percent of disposable income = $25\% \times 400 = \mathbf{\$100}$

LESSER amount of (A) and (B) = \$91

3. LESSER amount minus child support deduction - **\$91 - 80 = \$11**

Amount to deduct for Penney's garnishment = \$11.00

Scenario 2: Alice's biweekly disposable income is \$1300. Her income-withholding order is for \$400 per pay period (she is single and is not in arrears). J.C. Penney serves a garnishment against Alice for \$500.

1. Amount to withhold for child support: **\$400** ($1300 \times 60\% = 780$)
2. A. Biweekly disposable income minus 60 times minimum wage = **\$991**

B. 25 percent of disposable income = **\$325**

LESSER amount of (A) and (B) = \$325

3. LESSER amount minus child support deduction - **\$325 - 400 = 0**

Amount to deduct for Penney's garnishment = NOTHING

Exercise: Child Support and Other Garnishments

Scenario 1: Alice's biweekly disposable income is \$400. Her income-withholding order is for \$80 per pay period (she is single and is not in arrears). J.C. Penney serves a garnishment against Alice for \$500.

1. Amount to withhold for child support: \$_____

2. A. Biweekly disposable income minus 60 times minimum wage = \$_____

- B. 25 percent of disposable income = \$_____

- LESSER amount of (A) and (B) = \$_____

3. LESSER amount minus child support deduction = amount to deduct for Penney's garnishment: \$_____

Scenario 2: Alice's biweekly disposable income is \$1300. Her income-withholding order is for \$400 per pay period (she is single and is not in arrears). J.C. Penney serves a garnishment against Alice for \$500.

1. Amount to withhold for child support: \$_____

2. A. Biweekly disposable income minus 60 times minimum wage = \$_____

- B. 25 percent of disposable income = \$_____

- LESSER amount of (A) and (B) = \$_____

3. LESSER amount minus child support deduction - \$_____

TRAINING NOTES

- A **federal tax debt does** take precedence over a child support withholding order if it was entered **before** the underlying child support order (as opposed to the Order/Notice to Withhold Income for Child Support). The Internal Revenue Service (IRS), however, has stated its willingness to accommodate child support orders that are entered **after** the IRS levy.
- **If the IRS tax levy was received by the employer first:** contact the IV-D agency and tell them you are paying a tax levy. (The agency has no way of knowing that there is an existing IRS levy that takes precedence over its withholding order unless you tell them about it.)
- **If the child support withholding order was received first:** contact the IRS and tell them you are already withholding for child support.

Background Notes on Bankruptcy

An employee who files for bankruptcy is not relieved of the obligation to pay child support, however, the withholding may be “stayed” for the period of a chapter 13 bankruptcy. The child support would then be paid as part of the bankruptcy plan. **A bankruptcy court order for withholding has top priority, whether it was served before or after the child support notice.** In that case, the court appointed trustee makes the child support payments rather than the employer. [Chapter 7 is for liquidation, which is usually resolved in a few months; Chapter 13 is reorganization, which can take two to three years.]

If the employee tells you that he or she has declared bankruptcy, ask for a copy of the stay. This is what prevents the withholding, and it should have some instructions from the court. You may be directed to pay the court, or to stop all withholding. The child support agency should let you know when to start withholding again, or you may receive a notice from the court. You do need something in writing before you stop withholding, and it would be a good idea to let child support know why you are no longer withholding. None of this would apply, however, in a chapter 7 bankruptcy. In a chapter 7, which is the most common kind of bankruptcy, the withholding would continue as before. The stay does not apply to after-acquired property, which is what the employee’s salary would be.

Child Support vs. Other Involuntary Deductions

- **IRS tax levy** served prior to underlying child support must be paid first
- **What to do:**
If levy came first, call child support agency
If withholding order came first, call IRS

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Child Support vs. Other Involuntary Deductions

- Bankruptcy court order has **TOP** priority
- Child support still owed even if bankruptcy is declared
- Chapter 13 – withholding stayed and paid by trustee
- Chapter 7 – continue to withhold as before



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4.12 CHILD SUPPORT VERSUS OTHER INVOLUNTARY DEDUCTIONS

- **Rule of thumb:**
 - Child support takes priority over everything else except a federal tax levy, but only if the federal tax levy was served **before** the income-withholding order.
 - Special treatment applies to bankruptcy cases.
- **Federal Tax Levy:**
 - Internal Revenue Service (IRS) levies take precedence over child support if they are served first.
 - Employers who are withholding income to satisfy a tax levy should notify the IRS if they then receive a child support order. In some cases, the IRS yields priority to the child support order.
- **Bankruptcy:**
 - Even if an employee declares bankruptcy, he is still obligated to pay child support. Debts due for delinquent child support are not dischargeable in bankruptcy actions.
 - An employer may be notified, however, that it is no longer responsible for withholding the payments because a trustee of the bankruptcy court may take over this task. Continue withholding until official notification from the agency or bankruptcy court is received.

TRAINING NOTES

- A **federal tax debt takes precedence** over a child support withholding order if it was served first.
- State examples:
 - Nontax federal debt – Administrative Wage Garnishment
 - Creditor garnishment – garnishment from a store like Sears
 - Assignment of wages – when taking out a loan, a person can voluntarily sign over his future wages to pay a creditor in the event that he defaults on the loan.

Child Support vs. Other
Involuntary Deductions

- Involuntary deductions that never
take precedence over child support:
 - Nontax federal debt
 - State and local tax levies
 - Creditor garnishment
 - Assignment of wages

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- Involuntary Deductions that never take precedence over child support withholding:
 - Nontax federal debt
 - State and local tax levies
 - Creditor garnishment
 - Assignment of wages
- This is true even if the child support withholding order was served after the involuntary deduction.

TRAINING NOTES

- When in doubt, call the child support enforcement agency!

**Common Concerns about
Income Withholding**

- Need to void paycheck/wrong amount withheld
- Employee protests
- Not sure when to stop withholding
- Multiple withholding orders

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4.13 COMMON CONCERNS ABOUT INCOME-WITHHOLDING

- **If you send an incorrect amount and you immediately realize your error:**
 - Contact the State Disbursement Unit or other payee and inquire as to the requirements and timeframe for a refund. This process may vary from state to state.

- **If your employee says the amount withheld is incorrect:**
 - It is the employee's responsibility, and not the employer's, to contact the agency/court to dispute the withholding. By law, the employer is bound to honor the terms of the income-withholding order.

- **If you are not sure when to stop withholding for an employee:**
 - Check the order/notice to see if a stop date is specified. If not, continue to withhold until you receive official notification (from the agency or court) to change or stop the withholding. Do not stop simply because your employee says it should be done.

- **If you receive withholding orders for more than one employee from the same state child support agency:**
 - A single check for each pay period may be sent to cover all the child support withholdings if they are all sent to the same receiving agency/court. Identifying information about each individual's payment must be included with the check (amount withheld for each employee, date each amount was withheld, case number or other identifier).

TRAINING NOTES

**Income Withholding
SUMMARY**

- Income withholding
- Calculating the amount to withhold
- Imputed income, or fringe benefits (deduct)

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4.14 INCOME-WITHHOLDING SUMMARY

- **Income-withholding:** automatic deductions from income that start as soon as the agreement for support is established, and the order/notice to withhold income for child support is received and validated by the employer. All income is subject to income-withholding for child support, pursuant to a child support order, but is protected by Consumer Credit Protection Act limits, both state and federal.
 - Standardized “Order/Notice to Withhold for Child Support” form.
 - “Direct income-withholding” is allowed (employer must honor an income-withholding order from another state)
 - Complying with the terms of the Order/Notice.
- **Calculating the amount to withhold:**
 - This should be a straightforward process for most child support income-withholding orders. The amount to withhold follows the terms of the order and cannot exceed the employee’s allowable disposable income.
 1. Calculate disposable income: gross pay minus mandatory deductions.
 2. Calculate allowable income: CCPA limits (%) applied to disposable income = maximum withholding allowed for child support purposes.
 - If the employee receives certain types of income, there are also special considerations in calculating the amount to be withheld:

Imputed Income (fringe benefits) – For child support purposes but not for tax purposes, subtract imputed income before calculating allowable disposable income.
- **Accrual of Arrears**
 - When the employee falls behind in payments, the past-due child support is called arrears. The order/notice to withhold will specify if arrears are owed, and how much to withhold to pay down the past-due support. It is not the employer’s responsibility to track accrual of arrears (the child support enforcement agency will do this).

TRAINING NOTES

Income Withholding SUMMARY

- Medical support (new NMSN)
- Accrual of arrears (not your problem)
- Special situations (not enough \$, other garnishments)

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Income Withholding SUMMARY

- **CHILD SUPPORT COMES FIRST!**
 - Exception: IRS tax levy served prior or bankruptcy



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- **Special Situations**

- Withholding is straightforward unless there is not enough allowable disposable income to cover the amount specified in the withholding order/notice, or if the employee is obligated to pay more than one withholding order.
- Follow the prioritization set by law if there is not enough money to cover the employee's total obligation for child support, or if there are other claims (levies, garnishments) against the employee's pay.
- Follow the allocation among multiple child support orders set by state law when withholding for more than one support obligation.
- When there are other garnishments and/or involuntary deductions from the employee's pay, remember that child support takes precedence over all other withholdings, except federal tax levies that were served prior to the child support withholding order. Special exceptions may apply in cases of bankruptcy; follow the instructions of the bankruptcy court or trustee.

- **Medical Support**

- Follow the terms specified in the National Medical Support Notice (NMSN) or the Qualified Medical Child Support Order (QMCSO). The obligated employee may be required to enroll his or her child in the employer-offered health insurance plan, or to have additional monies withheld to cover medical expenses and/or health insurance premiums. The agency must enroll the obligated employee's child as a dependent in the health insurance plan, even outside open enrollment season.
- Note that medical support can be ordered as part of the standardized Order/Notice to Withhold Income for Child Support.

When in doubt about how to proceed, handle an error, or obtain information, contact the local child support enforcement agency or the payee specified in the income-withholding order.

TRAINING NOTES