

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**EXCEPTIONS TO WAGE WITHHOLDING
FOR CHILD SUPPORT**



MARCH 1994 OEI-07-91-01220

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MARCH 1994

EXECUTIVE SUMMARY

PURPOSE

To assess the extent that States are requiring immediate wage withholding by Child Support Enforcement (CSE) agencies for absent parents ordered to pay child support.

BACKGROUND

The Child Support Enforcement Amendments of 1984 (P.L. 98-378) added sections 454(2) and 466 to Title IV of the Social Security Act. These sections require all States to implement certain mandatory procedures which have proven to noticeably increase the effectiveness of State programs, including procedures for wage withholding.

Section 101 of the Family Support Act of 1988 (P.L. 100-485) amended section 466 of the Act, requiring States to enact laws and implement procedures for immediate wage withholding in certain cases being enforced by the IV-D agency which administers the child support enforcement provisions. Under amended section 466(b)(3), a new subparagraph (A) provided, effective November 1, 1990, that immediate withholding is required for all IV-D cases with new or modified support orders regardless of the support payment status.

This provision, however, allowed exceptions to wage withholding if one parent demonstrates, and the court or administrative authority finds good cause not to require wage withholding, or if both parents agree in writing to an alternative arrangement. Section 466(b)(3)(A) of the Act, as implemented by Federal regulations 45 CFR Part 303.100(b)(2) and (b)(3), establishes minimum definitions of "good cause" and "written agreement."

FINDINGS

State CSE agencies are essentially complying with the provision for immediate wage withholding in IV-D child support orders.

Our study found that in most IV-D child support orders, State CSE agencies are including and enforcing an immediate wage withholding provision. Our analysis of a sample of child support cases reviewed identified four groups of cases. These groups are: (I) Cases with wages withheld, (II) Cases where an exception to wage withholding was granted, (III) Cases where there are no wages to withhold, and (IV) Cases with no provision for wage withholding in the order.

National estimates calculated for the four groups of child support cases substantiated that overall there is not a problem with the exclusion of immediate wage withholding in IV-D child support orders. We determined that:

- State CSE agencies are enforcing immediate wage withholding in 91.8% of child support orders.
- State CSE agencies are granting very few exceptions to immediate wage withholding in IV-D child support orders. They are granting exceptions in only 1.3% of child support orders.
- In cases where there is no income to withhold because the absent parent is unemployed, self-employed, on assistance, etc., State CSE agencies are including a stipulation for wage withholding in 6.3% of child support orders. The inclusion of this stipulation authorizes the CSE agencies to enforce wage withholding at any future time without further order by the court.
- State CSE agencies do not include an immediate wage withholding provision nor explicitly grant an exception in only 0.6% of child support orders.

CONCLUSION

As indicated in the findings, State CSE agencies are essentially complying with section 466(b)(3)(A) of the Act. Because of the significantly high level of compliance in this area, we are not making any formal recommendation for action by the Administration for Children and Families (ACF) in our report. It should be noted, however, while the noncompliance is minimal, the exclusion of the wage withholding provision requires future modification of the orders before withholding of payments can be initiated and it prolongs the time the children are deprived of support dollars. Therefore, ACF may wish to remind States to ensure compliance in each and every case.

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INTRODUCTION

PURPOSE

To assess the extent that States are requiring immediate wage withholding by Child Support Enforcement (CSE) agencies for absent parents ordered to pay child support.

BACKGROUND

The Child Support Enforcement Amendments of 1984 (P.L. 98-378) added sections 454(2) and 466 to Title IV of the Social Security Act, requiring all States to implement certain mandatory procedures, including procedures for wage withholding, which have proven to noticeably increase the effectiveness of State programs. Specifically, section 466 of the Act requires that States have in effect two distinct procedures for carrying out a wage withholding program.

The first procedure, required under section 466(a)(1) and (b) of the Act, pertains to cases being enforced through the IV-D agency which administers the child support enforcement provisions. Under this requirement, States are required to have and use a procedure under which wage withholding is initiated in all IV-D cases where payments are in arrears by at least one month. States are also required to implement wage withholding at any earlier date in accordance with State laws or at the request of the absent parent.

The second procedure, required under section 466(a)(8)(A) of the Act, provides that all new or modified orders issued in the State include a provision for wage withholding when an arrearage occurs, in order to ensure that withholding is available without the necessity of filing an application for IV-D services.

Section 101 of the Family Support Act of 1988 (P.L. 100-485) amended section 466 of the Act, to require States to enact laws and implement procedures for immediate wage withholding in certain cases being enforced by the IV-D agency. Under amended section 466(b)(3), a new subparagraph (A) provides, effective November 1, 1990, that immediate withholding is required for all IV-D cases with new or modified support orders regardless of the support payment status. This section, however, also provides that exceptions to wage withholding may be granted if one parent demonstrates, and the court or administrative authority finds good cause not to require wage withholding, or if both parents agree in writing to an alternative arrangement.

Section 466(b)(3)(A) of the Act is implemented by Federal regulations 45 CFR Part 303.100 (b)(2) and (b)(3) and establishes minimum definitions of "good cause" and "written agreement."

- Paragraph (b)(2) provides that, at a minimum, "good cause" must be based on "(i) a written determination that, and explanation by the court or administrative authority of why, implementing immediate wage withholding would not be in the best interests of the child; and (ii) proof of timely payment of previously ordered support in cases involving the modification of support orders."
- Paragraph (b)(3) provides that "written agreement" means "a written alternative arrangement signed by both the custodial and absent parent and, at State option, by the State in IV-D cases in which there is an assignment of support rights to the State, and reviewed and entered in the record by the court or administrative authority."

METHODOLOGY

We stratified 43 States and the District of Columbia into 4 strata based upon the size of their 1990 average annual IV-D caseload. A fifth strata was made up of the remaining seven States which had applied for and were granted an exemption to the immediate wage withholding provisions. Under State law, these seven States would never grant an exception to wage withholding under any circumstances.

The source of the caseload information is the form OCSE-56 which lists the average annual IV-D caseload for the last five fiscal years. The Policy Branch, Office of Child Support Enforcement (OCSE), provided us with the seven States which have been granted an exemption to the wage withholding provisions. They are Arizona, Hawaii, Illinois, Kentucky, New York, Ohio, and Wisconsin.

From the population of States we selected a stratified random sample of 10. These States are shown by strata in the following chart.

| <u>STRATA 1</u> | <u>STRATA 2</u> | <u>STRATA 3</u> | <u>STRATA 4</u> | <u>STRATA 5</u> |
|-----------------|-----------------|-----------------|-----------------|-----------------|
| Michigan* | Oregon | Oklahoma | Nevada | Hawaii |
| Pennsylvania | Washington | Kansas | South Dakota | Arizona |

** Michigan was excluded from the sample of States as it was not able to meet the inspection's data requirements.*

We contacted each sample State and requested two lists of IV-D child support cases for the review period February - April, 1993. The first was a list of all IV-D child support cases in which a new or modified order was issued. The second list, a subset of the first, was a more detailed list that identified the orders which were issued without immediate wage withholding and the reasons for excluding the wage withholding.

All but one of the sampled States submitted the lists as requested. That State, Pennsylvania, submitted a copy of every child support order issued for the review period. Of the remaining eight States, the two States in strata five have been granted an exemption from the exception to wage withholding provision and included it in every child support order issued during the review period. The lists submitted by the rest of the States did identify those cases where there was no wage withholding being enforced. However, in many of those cases it was difficult to determine the actual reasons for the immediate wage withholding being excluded from the child support orders.

For this reason, we recontacted those six States and requested copies of all the child support orders for those cases with no wage withholding being enforced. Upon receipt of the requested orders, we conducted a review to determine the reasons for nonenforcement of immediate wage withholding.

As a result of our analysis of all the cases provided by the States, we divided them into four groups. The groups are:

- Group I** **Wages Withheld** - Cases which have an immediate wage withholding provision in the child support order and it is being enforced.
- Group II** **Exceptions Granted** - Cases in which an exception was granted for "good cause" or an "alternative arrangement."
- Group III** **No Wages Available** - Cases where there were no wages to withhold at the time of the order, but the orders stipulated that immediate wage withholding could be enforced in the future without further order of the court.
- Group IV** **No Provision for Wage Withholding** - Cases which did not include any provision for immediate wage withholding in the child support orders nor explicitly provided for an exception.

Appendix A indicates the breakdown of child support cases reported by each sample State for the review period February 1 through April 30, 1993.

In our calculation of national estimates for all child support cases, we took into account that Michigan was excluded from the original sample of 10 States and its effect on the first strata. Therefore, for purposes of calculating the variances of the national estimates, Pennsylvania was combined with the two States in the second strata (Oregon and Washington). Consequently, the projected totals reported are for the population excluding the State of Michigan.

The estimates were calculated based on our review of all cases within a State with the exception of Pennsylvania. Due to the large number of orders (over 24,000) sent to us and the way in which they were organized, these child support orders were sampled.

The variance within the State of Pennsylvania was ignored since we believe it to be very small when compared to the overall variance of the sample.

We conducted our review in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

FINDINGS

State CSE agencies are essentially complying with the provision for immediate wage withholding in IV-D child support orders.

Our study found that in most IV-D child support orders, State CSE agencies are including and enforcing an immediate wage withholding provision. As indicated in the following table, national estimates calculated for the four groups of child support cases substantiated that overall there is not a problem with the exclusion of immediate wage withholding in IV-D child support orders.

| Type of Child Support Order | Estimate | 95% Confidence Interval | | |
|--|----------|-------------------------|---|-------|
| Group I - Wages Withheld | 91.8% | 80.1 | - | 100% |
| Group II - Exceptions Granted | 1.3% | 0.0 | - | 3.3% |
| Group III - No Wages Available | 6.3% | 0.0 | - | 14.4% |
| Group IV - No Provision for Wage Withholding | 0.6% | 0.32 | - | 0.88% |

The table shows the estimated proportions for each of the four groups and the 95% confidence intervals for these estimates. It shows that:

- State CSE agencies are enforcing immediate wage withholding in 91.8% of child support orders.
- State CSE agencies are granting very few exceptions to immediate wage withholding in IV-D child support orders. We found that exceptions are being granted in only 1.3% of child support orders.
- In cases where there is no income to withhold because the absent parent is unemployed, self-employed, on assistance, etc., State CSE agencies are including a stipulation for wage withholding in 6.3% of child support orders. This stipulation authorizes the CSE agencies to enforce wage withholding at any future time without further order by the court.
- State CSE agencies do not include an immediate wage withholding provision nor explicitly grant an exception in only 0.6% of child support orders.

CONCLUSION

As indicated in the findings, State CSE agencies are essentially complying with section 466(b)(3)(A) of the Act. Because of the significantly high level of compliance in this area, we are not making any formal recommendation for action by ACF in our report. It should be noted, however, while this occurrence is minimal, the exclusion of the wage withholding provision requires future modification of the orders before withholding of payments can be initiated and it prolongs the time the children are deprived of support dollars. Therefore, ACF may wish to remind States to ensure compliance in each and every case.

APPENDIX A

Breakdown of Sampled Child Support Cases Reported by State

Period of Review: February 1 - April 30, 1993

| STATE | Group I Wages Withheld | Group II Exceptions Granted | Group III No Wages Available | Group IV No Provision for Wage Withholding | TOTAL |
|-------|------------------------------|-----------------------------------|------------------------------------|--|--------|
| PA* | 18,885 | 1,134 | 3,990 | 138 | 24,147 |
| OR | 2,129 | 11 | -0- | -0- | 2,140 |
| WA | 4,927 | 17 | 199 | 42 | 5,185 |
| OK | 1,459 | -0- | 2 | 11 | 1,472 |
| KS | 1,093 | 26 | 3 | 22 | 1,144 |
| NV | 3,193 | 52 | 547 | 288 | 4,080 |
| SD | 936 | -0- | -0- | 13 | 949 |
| HI | 333 | -0- | -0- | -0- | 333 |
| AZ | 392 | -0- | 71 | -0- | 463 |
| TOTAL | 33,347 | 1,240 | 4,812 | 514 | 39,913 |

**The figures for Pennsylvania are estimated based upon a sample.*