

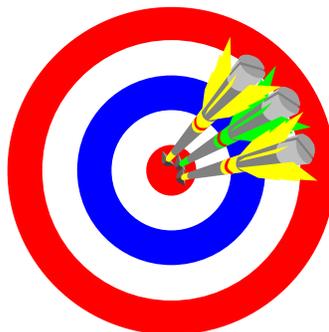
MODULE 4: INCOME WITHHOLDING

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

25

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 employee's dependents.
- Determine when child support income withholding orders take precedence over other garnishments and withholdings.

Income Withholding

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



26

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."

27

Income Withholding

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

28

4.2 INCOME WITHHOLDING FOR FEDERAL EMPLOYEES

- **What:**
 - A garnishment for child support owed is called an income withholding order (IWO). The employer deducts the specified amount of child support each pay period and sends it to the state child support enforcement state disbursement unit (SDU) or 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, following is a 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 (including Social Security disability payments but **not** SSI benefits)

Veterans Affairs (in certain instances)

Railroad Retirement Board benefits

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.

Income Withholding

- **How**
 - usually issued by child support agency
 - standardized "Income Withholding for Support" form or IWO



29

- **How:**
 - An income withholding order will usually be issued by the child support enforcement agency. It may be issued by a judge at the time the underlying child support order is entered, or by an attorney, private child support agency, or other entity.
 - A standardized federal form entitled, **Income Withholding for Support Order** or **IWO**, 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).
 - The IWO 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 IWO may also be sent via an electronic portal. The **electronic income withholding order (eIWO)** enables participating states and employers to transmit and receive eIWO documents and files by secure, electronic means. Employers may electronically notify states regarding the status of IWOs, including terminations and lump sums.
 - More information on eIWOs may be found at:
<http://www.acf.hhs.gov/programs/cse/newhire/employer/eiwo/eiwo.htm>

Order/Notice to Withhold

- **Top – identifying information**
- **Order information – how much to withhold, type of support**



30

Hand-Out 3: Income Withholding for Support Order form is also available at: www.acf.hhs.gov/programs/cse/forms/

- **Top of Form**

This section of the form contains:

- Identifying information
- Type of IWO (original; one-time lump sum; amended; terminated)

Form may be amended if:

- Current support is 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.

The form may be terminated for reasons such as the child has reached age of majority or the child has died.

It is not the employer's responsibility to keep track of arrears. An arrearage is the unpaid current support previously due. The child support agency will send an amended order 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.

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)

3

- **Remittance Information**

This section provides the information needed to send payments. Information already entered in the data fields 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 may 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 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.

Income Withholding

- **Where:** from any state
- **When:** within 7 days OR LESS
- **Why:** over 70% of all collections
- **How:** may be sent to federal agency
by regular
or certified
mail per state
law or eIWO



32

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
- See OCSE web site at http://www.acf.hhs.gov/programs/cse/newhire/contacts/iw_fedcontacts.htm



33

- **Where:**
 - An IWO may come from an entity within the employer’s state, or directly from another state. If it comes 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:**
 - Income withholding is the single most effective tool for collecting child support from noncustodial parents, accounting for approximately 70 percent of all monies collected.

- **Federal Addresses for Withholding:**
 - State child support agencies send IWOs 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.
 - Because this information is updated frequently, the federal Office of Child Support Enforcement (OCSE) maintains a list of current federal agency addresses for income withholding at:
http://www.acf.hhs.gov/programs/cse/newhire/contacts/iw_fedcontacts.htm

Complying with the Order

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



34

4.3 COMPLYING WITH INCOME WITHHOLDING AND MEDICAL SUPPORT NOTICES

The employer receives an IWO for Child Support.

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

Exercise

- Withholding order received 5/6/08
- Next payday is 5/16/08
- \$100 weekly support due, \$800 weekly gross pay
- Withhold \$_____ on _____ and send in by _____?

35

Exercise: Sample Case for Income Withholding

Jacob Astor married Bridget Quincy in November 1999. 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 2008, Jacob was ordered to pay \$100 each week in child support. After the divorce, Jacob moved to Richmond, Virginia.

In May 2008, an IWO was sent from Nebraska to his new employer in Richmond, the U.S. Department of Fine Works (DFW).

DFW received the IWO on 5/6/08.

DFW's payroll is biweekly and the next payday is 5/16/08.

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? _____

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



36

Calculating Disposable Income

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



37

4.4 CALCULATING DISPOSABLE INCOME FOR FEDERAL EMPLOYEES

- **What:**

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

The “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
- Life insurance premiums (not including contributions for supplementary coverage)

- **Why:**

- Child support may 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.

Calculating Disposable Income

- **Federal Consumer Credit Protection Act limits:**
 - 50% - 2nd family, arrears < 12 wks
 - 55% - 2nd family, 12+ wks in arrears
 - 60% - single, arrears < 12 wks
 - 65% - single, 12+ wks in arrears

38

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

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

- 50% Has a second family, with fewer than 12 weeks in arrears
- 55% Has a second family, and is more than 12 weeks in arrears
- 60% Single, with fewer than 12 weeks in arrears
- 65% Single, and is more than 12 weeks in arrears

Disposable income times the CCPA limit = Allowable disposable income.

Title III of the Consumer Credit Protection Act (15 USC Sec. 1671 et seq; 29 CFR 870) 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.

Exercise: Disposable Income

- Jacob's gross biweekly pay \$1600.00
- Less mandatory deductions -350.00
- Jacob's disposable income \$1,250.00

39

Exercise: Calculating Allowable Disposable Income

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

Assume that Jacob is four 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 IWO.

- DFW's payday is every other Friday.

- The following deductions are taken from Jacob's biweekly gross pay of \$1600.00:

- Federal/state/local taxes \$190.00
- FICA \$90.00
- Medicare \$20.00
- Health insurance \$50.00

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

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	

40

Exercise: Calculating Maximum Withholding

Now calculate the **allowable disposable income** (or, “maximum withholding”) for this biweekly pay period by applying the CCPA 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?

Imputed Income

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

P



41

4.5 IMPUTED INCOME

- **What:**
- Imputed income is 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 allowance (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 be deducted from the gross pay after taxes are computed and before disposable income (and then allowable disposable income) can be calculated for child support purposes.

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)	

42

Exercise: Imputed Income

Gross weekly 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	(_____)
Amount of disposable earnings for child support	\$_____

Withholding for Medical Support

- **What**

1. CP provides coverage
2. NCP provides coverage
3. NCP provides coverage through private plan
4. Child enrolled in plan solely for children
5. Child enrolled in state CHIP
6. Either or both parents provide cash



43

4.6 WITHHOLDING FOR MEDICAL SUPPORT

- **What:**

- There are six basic types of health care coverage for a child who does not live with the providing parent, or noncustodial parent (NCP):
 - Custodial parent (CP) is ordered to provide coverage through his or her employer's plan; the NCP may be required in the support order to pay money toward this coverage.
 - NCP maintains coverage through his or her employer's plan; employer withholds premiums for the child's health care, or medical support, from the NCP's pay.
 - NCP maintains coverage through a private plan and pays the premiums directly to the plan. Employer does not withhold medical support.
 - Child is enrolled in a plan designed solely for coverage of children. Employer withholds premiums from either the CP's or 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.
 - Either or both the CP and NCP pay cash medical support to offset medical costs of uninsured children.

Medical support provides health care coverage for a child through the CP or NCP'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.

Withholding for Medical Support

- **When**

- Your employee is eligible

- **How**

- NMSN (or QMCSO)
- Disregard "open enrollment" season
- You withhold child's premiums per plan administrator



44

- **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 either the NCP or the CP to enroll the child in the plan, or
- Deduct premiums from the employee's pay (within CCPA limits).

Withholding for Medical Support

- **Qualified Medical Child Support Orders (QMCSO) have been replaced by National Medical Support Notice (NMSN) for child support agencies**
- **Private attorneys may use NMSN or QMCSO**

45

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 standardized, federal form, constitutes a QMCSO because it contains all the necessary elements of a QMCSO and therefore may be used in lieu of a QMCSO.

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



NATIONAL MEDICAL SUPPORT NOTICE

As of October 1, 2001, all employers in states that passed enabling legislation were required to respond to the NMSN. Its use is required of state child support enforcement (CSE) agencies, but not of Tribal CSEs.

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 be sent by the state child support agency, with an IWO, or separately.

How the NMSN works

Important note:

Withholdings for both **cash** child support and **medical** support are subject to CCPA limits set by the employee's principal place of employment state.

47

How it Works:

- The NMSN is sent by the state child support agency with an IWO 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 CP of the child’s enrollment, and provides claim forms to the CP within 40 business days of the date of the NMSN; or notifies the issuing agency when multiple options are available so appropriate coverage may 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. For state-specific prioritization, see the OCSE website at http://www.acf.hhs.gov/programs/cse/newhire/employer/contacts/contact_map.htm
 - 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.

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

48

4.7 INCOME WITHHOLDING WHEN THE EMPLOYEE IS NOT WORKING

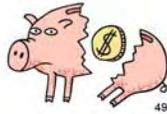
- **When:**
 - Your employee may not be working because of prolonged illness or injury, and he receives annual leave, sick leave, or worker’s compensation during this time.
 - Your employee is on “leave without pay” status.

- **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 may continue to make child support payments on his own in order to avoid accrual of arrears. He may also request a downward modification in the amount of child support owed by contacting the issuing agency.

- **Also:**
 - Refer to Section 4.2, Income Withholding for Federal Employees, for more information about withholding from other federal benefits, such as Social Security Administration benefits.

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



4.8 PRIORITIZING MULTIPLE DEDUCTIONS

- **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 (CCPA): 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)

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



50

Equal Method of Allocation

Order A \$90.00

Order B \$75.00

Order C \$62.00

\$227.00 but only have \$180

$\$180 \div 3 = \60 to each order

51

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 multiply that percentage times 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.

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"**

52

4.9 MULTIPLE CHILD SUPPORT ORDERS

Federal law requires that **some money must 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 (i.e., disposable income that falls within the CCPA limits for withholding) left over, then payments for **arrears** may 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 were used?

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. He is more than 12 weeks in arrears. He owes \$400/month in current support for his younger child.

Arthur's disposable income is \$2,000/month. The CCPA limits set by his state follow the federal CCPA limits.

What are the withholding limits for Arthur? _____%

Why? _____

HINT: Refer to Section 4.4, Calculating Disposable Income for Federal Employees.

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 must be paid by Arthur's employer?
\$_____

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 \$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 must be paid by Arthur's employer? Use the percentage method of allocation.

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

$$700 - 393 = 307$$

25% x 700 = 175 is lesser

BUT 175 - 180 = Nothing to withhold for Sears



4.10 CHILD SUPPORT WITH OTHER GARNISHMENTS

Rule of thumb: A child support income withholding order must be paid before all other garnishments except federal tax levies entered prior to the child support order. Note that not only do income-withholding orders take precedence over other garnishments, a lot more money may 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 \$6.55 = \$393.00]. Note that you would calculate 30 times the minimum wage for *weekly* disposable income (30 x \$6.55=\$196.50).

If the biweekly disposable income is LESS than \$393 (or less than \$196.50 for weekly disposable income), no withholding for garnishment may be made. These amounts will change as the minimum wage rate changes in 2009.
 - 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, may be withheld for child support.
- 2) A. Disposable income minus 60 times minimum wage: $\$700 - 393 = 307$
 - B. 25 percent of disposable income: $25\% \times \$700 = \175

\$175 is the LESSER of these two amounts.

3) Difference between the allowed amount for garnishment and the child support deduction taken: $175 - 180 = \text{Nothing}$

THE CHILD SUPPORT DEDUCTION OF \$180 HAS ALREADY EXCEEDED THE ALLOWED AMOUNT FOR GARNISHMENT, THEREFORE NOTHING MAY BE WITHHELD FOR TONY'S SEARS GARNISHMENT.

**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 – 393 = 607

25% x 1000 = 250 is lesser

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

55

Example 2: Tony's child support withholding obligation is \$70/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, may be withheld for child support.

2) A. Disposable income minus 60 times minimum wage: $\$1000 - 393 = 607$

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 may withhold \$110 for Tony's Sears garnishment.

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 J. C. 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 - \$_____

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



Child Support vs. Other Involuntary Deductions

- Child support still owed even if bankruptcy is declared
- Chapter 7 or 13 – continue to withhold unless instructed otherwise by the bankruptcy court trustee
- Follow bankruptcy court instructions



57

4.11 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 underlying child support order was issued.
 - 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 will yield 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. If you receive notification regarding a bankruptcy filing for an employee, you should continue withholding the child support payments.
 - 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.

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

58

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

Common Concerns about Income Withholding

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

59

4.12 COMMON CONCERNS ABOUT INCOME WITHHOLDING

- **If you send an incorrect amount and you immediately realize your error:**
 - Contact the SDU or other payee and inquire as to the requirements and timeframe for a refund. This process may vary from state to state. You will find these contacts on the OCSE website at:
http://www.acf.hhs.gov/programs/cse/newhire/employer/contacts/contact_s.htm

- **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 IWO.

- **If you are not sure when to stop withholding for an employee:**
 - Check the IWO 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 IWOs for more than one employee from the same state child support agency:**
 - A single check or EFT file 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).

Income Withholding SUMMARY

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

60

4.13 INCOME WITHHOLDING SUMMARY

- **Income withholding:**

Income withholding is 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 (CCPA) limits, both state and federal.

- Standardized federal income withholding for support order (IWO) form.
- “Direct income withholding” is allowed. An employer must honor an IWO from another state.
- Complying with the terms of the IWO.

- **Calculating the amount to withhold:**

- This should be a straightforward process for most IWOs. The amount to withhold follows the terms of the order and may not 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 IWO 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).

Income Withholding SUMMARY

- Medical support (new NMSN)
- Accrual of arrears (State will determine)
- Special situations (not enough \$, other garnishments)

61

Income Withholding SUMMARY

- CHILD SUPPORT COMES FIRST!
 - Exception: IRS tax levy served prior or bankruptcy, if so ordered by trustee



62

- **Special Situations**

- Withholding is straightforward unless there is not enough allowable disposable income to cover the amount specified in the IWO or if the employee is obligated to pay more than one IWO.
- Follow the prioritization set by state 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 method set by the state law in the state where the employee works to determine allocation among multiple child support orders 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 issuance of the child support 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 if outside the open enrollment season.

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 IWO.

