

# **An Employer's Guide to Income Withholding for Child and Medical Support**



**Kentucky Cabinet for Health and Family Services  
Department for Community Based Services  
Division of Child Support**

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## What is income withholding?

Many children in single-parent homes go without the basic necessities of life and end up on public assistance because a parent is not fulfilling his/her legal obligation to pay child support. One of the most disturbing facts about this problem is that many of these parents have jobs and are able to pay support.

To deal with the national problem of financially abandoned children, Congress enacted several federal laws to ensure that parents support their children, foster family responsibility and reduce welfare costs to taxpayers.

## Who benefits from income withholding?

**The children.** With regular income withholdings for child support, children are assured the stability of receiving their support payments on time and for the correct amount. Proven to be the most effective tool for enforcing child support obligations throughout the country, income withholding taps the noncustodial parent's income at its source and eliminates unpaid child support bills.

**The taxpayer.** With regular income withholdings for child support, the burden on the courts and other government agencies is lessened so these resources can be used for other purposes. The responsibility for financially supporting children is placed on their parents.

**The employer.** With regular income withholdings for child support, employers:

- Improve their employees' productivity by reducing absences for court appearances;
- Reduce psychological stress placed on employees who must manage personal finances in order to make payments or deal with missed payments;
- Minimize their administrative costs by deducting income for child support payments along with income tax and social security; and
- Provide a valuable service to both children and taxpayers.

## What happens in income withholding?

Unless the court approves an alternative arrangement, state and federal law requires that if the noncustodial parent is employed, child support must be paid by income withholding. Kentucky Revised Statutes (KRS) 405.465(7) and 405.467(11) require that an order/notice of immediate income withholding for child support takes priority over all other legal processes against the periodic earnings of the noncustodial parent. The only exception is a Federal (IRS) tax levy entered prior to when the underlying child support order was established. It is the date that the child support order is established, and not the date the withholding order/notice is served on the employer that determines precedence.

When a court order/notice is received to withhold part of an employee's wages to satisfy a child support obligation, KRS 405.465(4) mandates that the employer, and any subsequent employer, is bound by that order/notice until further notice by either the court or its representative. In addition to the amount withheld for child and medical support, this law allows the employer to deduct \$1 to recover administrative costs for each payment withheld from the employee's income.

Once the employer receives an order/notice to withhold wages for the payment of child support, 45 Code of Federal Regulations (CFR) 303.100(e)(1)(ix) and 921 Kentucky Administrative Regulations (KAR) 1:410 provide that the employer must withhold the amount specified in the notice and pay that amount to the State Disbursement Unit (SDU) within seven business days after the amount

is withheld. Mail payments for Kentucky wage withholdings to the Kentucky SDU: Division of Child Support, P.O. Box 14059, Lexington, KY 40512-4059.

KRS 405.467(10) states that employers shall be held liable for any amount the employer fails to withhold from earnings following receipt of an order to withhold earnings. KRS 405.465(8) and 405.467(12) provide that employees cannot be disciplined, discharged or refused employment because of a wage withholding for child support payments or medical insurance premiums. Any violation of KRS 405 could result in penalties as defined in KRS 405.991.

## Termination of Employment

KRS 405.465(5) requires the employer to notify the cabinet or its representative if the employee terminates employment for any reason.

**The employer must continue to withhold through the employee's final paycheck and inform the state agency or court immediately that the employee has been terminated.** Page 2 of the Order/Notice to Withhold Income for Child Support (OMB No. 0970-0154) (Form CS-89) under #5, Termination Notification, should be completed and must include the employee's last known address and the name and address of the employee's new employer, if known. If the employee returns to work, wage withholding should resume unless the employer was notified to terminate the withholding. Terminated employees who are rehired and have income withholding orders must be reported as new hires.

## Amount of Wages Subject to Withholding

45 CFR 303.100(e)(1)(viii) states that the employer may combine withheld amounts from the noncustodial parent's income in a single payment to each appropriate agency requesting withholding and separately identify the portion of the single payment which is attributable to each individual noncustodial parent.

A wage withholding must identify each payment by providing the:

- Employee's name and Social Security number;
- Court or cabinet-assigned case number (if one employee has two or more income withholding orders, list all court/case numbers for that employee);
- Specific amount withheld for each employee; and
- Date each payment is withheld.

**Note:** The court or cabinet-assigned number is a case identification number provided in the body of the order/notice.

45 CFR 303.100(a)(3) and KRS 405.467(6) limit the amount of wages that are subject to withholding for child support. The maximum amounts are expressed in percentages and depend upon whether the obligated parent has remarried and is supporting a new family, and whether arrearages are owed that equal or exceed 12 weeks of support. The Consumer Credit Protection Act (CCPA) (15 U.S.C. 1673(b)(2) limits are:

- 50 percent** of a person's disposable earnings if the person is supporting a second family (a spouse and/or dependent child)
- 55 percent** if the person is supporting a second family and owes an arrearage that is 12 weeks or more past due
- 60 percent** of the person's disposable earnings if the person is not supporting a second family or

- D. 65 percent** if the person is not supporting a second family and owes an arrearage that is 12 weeks or more past due

## **Lump Sum Payments**

In accordance with KRS 405.465(6)(a): “An employer with twenty (20) or more employees shall notify in writing the cabinet, or its designee administering the support order, of any lump-sum payment of any kind of one hundred fifty dollars (\$150) or more to be made to an employee under a wage withholding order. An employer with twenty (20) or more employees shall notify in writing the cabinet or its designee no later than forty-five (45) days before the lump-sum payment is to be made or, if the employee’s right to the lump-sum payment is determined less than forty-five (45) days before it is to be made, the date on which that determination is made. After notification, the employer shall hold each lump-sum payment of one hundred fifty dollars (\$150) or more for thirty (30) days after the date on which it would otherwise be paid to the employee and, on order of the court, pay all or a specified amount of the lump-sum payment to the Division of Child Support. The employer may deduct the sum of one dollar (\$1) for each payment.”

## **What if the employee contests the withholding order/notice?**

If the employee believes that the income withholding order/notice was issued in error or that child support is not owed, the employee should contact the court, state agency or attorney that sent the order to you. However, employers must begin withholding within the time frames required by law and continue until the person or entity that sent the withholding notice informs you, in writing, to stop or withhold a different amount.

## **Multiple Kentucky Withholding Requests for One Employee with Insufficient Income**

If an employee has more than one child support obligation in Kentucky, and the employee’s disposable income is not sufficient under CCPA limits to cover the total amount due for all withholding orders/notices, you must withhold and forward the CCPA limit. The amount withheld will be prorated/allocated automatically by the cabinet in accordance with KRS 405.467(7).

## **Interstate Wage Withholding**

The Uniform Interstate Family Support Act (UIFSA) authorizes states to issue direct income withholding orders to employers in other states. You must honor these orders, just as you would an order/notice from the Commonwealth of Kentucky in accordance with KRS Chapter 407.5501-5506.

When you receive an income withholding order/notice from another state:

- Immediately provide a copy of the order/notice to the affected employee.
- Withhold and distribute the funds as directed in the withholding order/notice which will specify the duration and amount of periodic current child support payments, and the agency designated to receive payments.
- The order/notice may also provide for medical support, whether in the form of periodic cash

payment, stated as a certain sum, or may order the employee (noncustodial parent) to provide health insurance coverage for the child when health insurance is available through the employer.

- The order/notice may also specify periodic payments of fees and costs for a support enforcement agency, the issuing court, the custodian’s attorney and the amount of periodic payments of arrearages and interest on arrearages, stated as certain sums.

If an employee has more than one interstate child support obligation, and the employee’s disposable income is not sufficient under CCPA limits to cover the total amount due for all withholding orders/notices, the amount withheld must be prorated/allocated to the following criteria:

If the total to be withheld for current support alone exceeds the limits, you must allocate the withholding on a proportionate basis between multiple family units based on the amounts due under the order. For example, if “Family A” has \$150 due in current support and “Family B” has \$200 due in current support, the total current support due for both is \$350. If the employee has only \$300 available for withholding, you must do the following:

1. Compute the percentage due to each family.

$\$150 \div \$350 = 43\%$  to Family A or \$129 of the \$300 available

$\$200 \div \$350 = 57\%$  to Family B or \$171 of the \$300 available

2. If the total support to be withheld for current and past due support exceeds the CCPA limits, withholding for all current support must be satisfied first. The remainder must be allocated based on the amounts due for past child support under each order.

A wage withholding order/notice for administrative costs must be honored to the fullest extent only if the full amount of child support, medical support, and arrearage payments for all families has been satisfied. Apply the same formula for allocating if more than one order/notice to withhold for administrative costs is received.

## Whose law applies?

If the employee questions provisions of the order, the state law of the employee’s principal place of employment will apply for the following issues:

- The employer’s fee for processing an income withholding order/notice
- The maximum amount permitted to be withheld from the employee’s income
- The timeframes within which the withholding order must be implemented
- The priorities for withholding and allocating income withheld for multiple custodians

The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order. With regard to arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

## New Hire Reporting

42 U.S.C. 653(b) and KRS 405.435 require all Kentucky employers to report basic information about employees who are newly hired, rehired or terminated. Information should include name, address, and Social Security number. This information can assist the Commonwealth of Kentucky in

locating parents who owe child support or to identify recipients of public assistance and unemployment compensation who fail to report their earnings.

Employers are expected to comply with the law and to submit new hire reports within the required time limits. In accordance with KRS 405.435, reports must be submitted no later than 20 days after an employee is hired or returns to work (following a separation of employment of 30 days or more). Employers who report their information electronically (via tape, diskette or the New Hire Web site on the Internet) must report within 12 to 16 days after the employee starts or returns to paid status.

Each report must include the **employee's name, address, Social Security Number**; and for your company: the **name, address, Federal Employer Identification Number (FEIN) and Kentucky Employer Identification Number (KEIN)**. The Division of Child Support (DCS) also encourages employers to report to DCS the state employer identification number, employee's date of birth, date of hire and if health insurance is available to the employee.

Reports may be sent using the Internet, electronically or by paper report. Regardless of the format used, employers should make certain all of the required information is included, as reports cannot be processed if required information is not provided, is incomplete or is illegible. Incomplete reports will be returned to the employer for correction. For more information on using each of these formats, visit the Kentucky New Hire Web site at <http://newhire-reporting.com/KY-Newhire/instruct.aspx>.

Any employer, with employees in Kentucky and in one or more other state(s), who submits reports electronically, may report all new hires in all states to Kentucky, if the employer does both of the following:

1. Notify the United States Secretary of Health and Human Services, in writing, that the employer has designated Kentucky as the sole state to which that employer will transmit the report. Employers may send notification online, print an optional Employer Notification form in PDF format, or call toll free (800) 817-2262 to receive the Employer Notification form by fax.

2. If you are a multistate employer and you elect to send New Hire reports to Kentucky, please notify the federal government of your decision online at:  
[www.newhire-reporting.com/KY-Newhire/multistate.aspx](http://www.newhire-reporting.com/KY-Newhire/multistate.aspx)  
or at the following address:

Department of Health and Human Services  
Office of Child Support Enforcement  
Multi State Employer Register  
P.O. Box 509, Randallstown, MD 21133

For more information, contact the Kentucky New Hire Center at:

Kentucky New Hire Reporting  
P.O. Box 2586  
Atlanta, GA 30301  
Phone: (800) 817-2262  
FAX: (800) 817-0099  
E-mail: <http://newhire-reporting.com/KY-Newhire/feedback.aspx>  
Internet: <http://kynewhire.com>

## Medical Support

KRS 403.211(7), (8), (10)-(12), 405.467(3) and 921 KAR 1:410 Section 1(2) and (3) pertain to the requirements for parents to provide health care for their dependent child(ren), including insurance coverage if insurance is available through their employers at reasonable cost. If a parent is ordered to obtain insurance for the child(ren) but does not enroll the child(ren) in your health insurance program, you must enroll the child(ren) if you receive an order/notice to do so, regardless of the open enrollment period. If you receive an order/notice to deduct the employee-paid share of health insurance cost for a dependent child(ren), in addition to current child support and past-due child support, you must withhold current and past-due child support first.

You will receive an order/notice to enroll a dependent child(ren) if the parent has been ordered to get health insurance for the child but has failed to do so by the required date.

When a parent enrolls a dependent child as ordered and then changes employers, the child support agency will notify the new employer that coverage will be transferred, if the new employer provides health insurance. The only way a parent can protest the transfer of a dependent child(ren)'s coverage to the new employer is to provide proof to the child support agency that coverage is being otherwise provided.

KRS 205.594, 205.595, 403.211, 405.465 and 405.467 provide additional requirements concerning health care coverage for dependent children, including duties of employers and health insurers. These laws implement federal legislation enacted in 1993 and 1998. Under the Deficit Reduction Act of 2005 (Public Law 109-171), medical support may include health care coverage, such as coverage under a health insurance plan (including payment of costs of premiums, co-payments, and deductibles) and payment for medical expenses incurred on behalf of the child; and medical support can be ordered to be provided by either or both parents.

## Questions and Answers

As one of the government agencies that benefits from your efforts, we are pleased to provide this list of often-asked questions and answers about state and federal income withholding requirements.

### **My employees are periodically paid a sales commission or bonus. Do I have to withhold child support from the commission or bonus?**

Yes. Commissions and bonuses are considered earnings from which child and medical support may be withheld according to KRS 427.005(1).

### **My employee says he/she was never notified that the withholding was about to start. I have been instructed to begin withholding on the next paycheck. What should I do?**

Begin the withholding as instructed and advise the employee to call the local child support office. If the employee does not know the telephone number, he or she can obtain it by calling the Division of Child Support at (800) 248-1163. The employee will receive a copy of the initial Order/

Notice to Withhold Income for Child Support (Form CS-89) and a notice about how he or she can protest the withholding.

### **What happens if the employee files for bankruptcy?**

Even if an employee declares bankruptcy, he/she is still obligated to pay child support. Debts due for delinquent child support are not dischargeable in bankruptcy actions. Income withholding orders must be implemented immediately, and those income withholding orders already in place should continue without interruption unless official notification is received from the bankruptcy court, other court or the cabinet.

### **What if an employee is called for active duty?**

If you have an employee who is called for active duty, it would be helpful if you would contact the child support office that issued the income withholding order and report that the employee has been called for active duty and provide the date of activation.

The child support office will then issue a new income withholding order to the appropriate branch of military service.

### **What if the employee quits the job?**

Continue income withholding through the final paycheck and notify the child support office named in the order. If a new employer's name or address is known, please provide this information.

### **What happens if an income withholding order is sent for someone who doesn't work here?**

Return the notice, along with a letter, to the child support office that sent it. If the noncustodial parent was previously an employee and is no longer working there, provide the date of termination, the forwarding employer's name and address, if known, or any other information that could help the child support office locate the former employee. If the noncustodial parent has never worked for your company, state that in your letter.

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