INCOME WITHHOLDING FOR CHILD SUPPORT PAYMENTS

State Court Administrative Office
Friend of the Court Bureau
Michigan Supreme Court
http://courts.mi.gov/administration/SCAO/OfficesPrograms/FOC

Employers or sources of income of a parent who pays child support are important to ensure that both parents support their children.

Income withholding helps parents pay their court order. The following summarizes the legal responsibilities of employers or other sources of income under federal and state child support laws.

The Q&A sections that follow use the terms "employer," "employee," and "income" in their broadest possible sense. For example, "employee" includes traditional employees, independent contractors, and parties to almost any arrangement that results in one person (or business entity) owing money to another person (or business entity) in exchange for goods or services.

The Q&A sections also use the terms "income withholding order" and "notice of income withholding." These are separate documents. First, a judge signs the "Income Withholding Order," which is included in the child support order. The friend of the court (FOC) then sends a "Notice of Income Withholding" to a payer's employer. Even though the Notice of Income Withholding does not have a judge's signature, employers must obey the notice as if it were a court order.

Who must withhold income?
Any employer or other source of income who receives a notice of income withholding and who owes or will owe money to the employee must withhold income. Income includes, but is not limited to:

- Salaries, hourly wages, commissions, bonuses, and vacation or sick pay.
- Current or future payments due from a profit-sharing plan, pension plan, insurance contract, or annuity.
- Miscellaneous debts owed to the support payer by other individuals or business entities.

Must employers or other sources of income obey another state's income withholding notice?
The Uniform Interstate Family Support Act allows another state, foreign country, or tribal nations, to send an income withholding notice directly to a support payer's Michigan employer. After receiving the order, the employer must:

a) Treat a notice that appears proper as if it had been issued by a Michigan court.
b) Immediately provide a copy to the employee.
c) Withhold and pay the employee's support.

When must an employer or other source of income start withholding income?
An employer must withhold income seven days after the employer receives the notice. An FOC can serve an employer by ordinary mail or electronically. The FOC will specify the date of mailing, the date to begin withholding, and where to send payments.

How soon must an employer or other source of income send the income that is withheld?
For Michigan court cases, an employer must send the income to the Michigan State Disbursement Unit (MiSDU) within three days after it is withheld. Out-of-state or foreign court orders may have a different deadline and a different place to send payments.

How will an employer or other source of income know if the court changes support?
In Michigan cases, the FOC whose court ordered support must send a new notice to the employer if the support amount changes. The employer must change the withholding within seven days after receiving the notice.

How long must an employer or other source of income continue to withhold income?
The income withholding remains in effect until it is canceled. The FOC will send the employer a written notice to stop the withholding.

What if the employee also has a writ of garnishment or other withholding orders?
Under Michigan law, an order to withhold income for child support has priority over all other legal processes for the same income, including garnishments and other payroll deductions (except tax withholding and other child support orders).

What happens if the employer or other source of income does not withhold the income?
Employers are liable for any support that they fail to withhold. The court will require the employer to pay the amount it *should* have withheld. The court may also find an employer in contempt of court and impose a fine for failing to obey the withholding notice.

Is there any limit on the amount that an employer or other source of income may withhold?
Under MCL 552.608 and 552.611a, no more than 50 percent of a standard employee's disposable income may be withheld.

What does an employer or other source of income have to provide when sending money to MiSDU and/or the FOC?
An employer or other source of income must include the employee's name and social security number, the employee's court case number or remittance identification number, the amount it sends, and the date on which the money was withheld from the employee's income. Most of this information is on the income withholding notice the employer receives. The employer or other source of income must also provide its name and federal employer identification number.

What happens if the employer or other source of income receives more than one withholding notice for the same employee?
If the total amount ordered is more than 50 percent, the employer should send only 50 percent of the available income to the Michigan State Disbursement Unit (MiSDU). The MiSDU will distribute the money among the employee's cases.

Sometimes employers or other sources of income are required to withhold money to pay an employee's dependent health care premiums directly to the insurer or plan administrator. What if the child support and the insurance premium together total more than 50 percent of the employee's disposable income?
First, the employer must use the withheld income to pay the full amount of current and past-due support. Then, the employer must withhold additional income for the insurance premium, but only until the total amount withheld reaches the limit set by the federal Consumer Credit Protection Act (CCPA). The employer is not required to use any of the employer's income to pay any portion of the insurance premium beyond the CCPA unless specifically required to do so by the employer's agreement with the employee.

Must employers or other sources of income who have received income-withholding notices for several employees make separate payments to MiSDU for each employee?
No. employers may combine them into a single payment to MiSDU. Employers must specify the amount for each employee and include identifying information.

May the employer or other source of income charge the employee for withholding?
Yes. Michigan law allows employers to charge a fee for processing Michigan income-withholding orders. For orders from other states or foreign countries, employers may deduct a fee if allowed to do so by the law of the state or foreign country that is the employee's principal place of employment (state where the employee works).

What if employees tell their employers or other sources of income that they do not owe any child support and demand that all their income is paid to them?
The employer must obey an income-withholding notice. The employee must contact the court or FOC to address his or her concerns.

What should an employer do if an employee who is subject to an income-withholding order stops working for the employer or other source of income?
Employers must notify the FOC if the employment relationship ends or is interrupted for a period of 14 or more consecutive days. In the case of termination, employers must also provide the FOC with the employee's last known address and the name and address of the employee's new employer (if the employer has that information).

What happens if the employer or other source of income refuses to hire or if the employer or other source of income takes disciplinary action against a current employee because of an income-withholding order?
It is a criminal offense to refuse to employ someone, or to discharge, discipline, or penalize a current employee because of income withholding. It is punishable by a fine up to $500 and full restitution to the employee, including both reinstatement and back pay.

Must an employer or other source of income provide the FOC with any other information about an employee who is subject to income withholding?
Yes, upon the FOC's request, an employer must provide the employee's full name and address, social security number, date of birth, amount of wages or other income, and employment status, plus information about any dependent health care coverage that the employee can obtain as a benefit of employment. For former employees and independent contractors, employers only have to provide the information to the FOC if the employee worked three years or less before the date of the request. The State Court Administrative Office has standard forms (FOC 22 and FOC 22b) that employers or other sources of income may use to provide that and other information about the employee to the FOC and the court. Employers or other sources of income can view and print those forms at:
http://courts.mi.gov/Administration/SCAO/Forms/Pages/Domestic-Relations.aspx.

Are there any other types of income withholding directives that employers or other sources of income must obey?

Michigan law allows the FOC to send the form, *Notice to Withhold Income for Fees and Costs* (FOC119), to employers or other sources of income regarding fines, fees, and costs by an employee. These notices are on a separate income withholding-notice and the withheld income should be sent directly to the FOC. Normal child support income-withholding notices take precedence over the notices payable to the FOC.

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