

§2359. Expedited income withholding

1. Order to withhold; commissioner may serve. The commissioner may direct any person by order to withhold property, including wages, that is due or belongs to the responsible parent when the responsible parent has failed to make payments under a support order and the amount in arrears is at least equal to the support payable for one month. The commissioner shall serve the order on the person directed to withhold.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

2. Notice of order to withhold. Prior to implementation of the order to withhold, the department shall serve a notice of intention to withhold to the responsible parent.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

3. Content of notice. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice of intention to withhold must include the following statements:

A. The amount of the arrearage and the amount of the current support order; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

B. The amount that will be withheld or the formula by which that amount will be determined; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

C. That the withholding will apply to any current or subsequent period of employment; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

D. That the responsible parent may contest the withholding by requesting a review pursuant to section 2451; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

E. That the only basis for contesting the withholding is a mistake of fact; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

F. That the request for review must be filed within 20 days of receipt of the notice of intention and that failure to request a review within 20 days will result in the department notifying the responsible parent's employer or other person holding property belonging to the responsible parent to begin withholding; and [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

G. That at the review hearing the responsible parent will have an opportunity to present the responsible parent's case; that the hearing officer's decision will be based on an evaluation of the facts, including the responsible parent's statement of the responsible parent's case; that the responsible parent will be informed of the decision; if withholding is to occur, the time within which the withholding will begin; and the information to be given to the employer or other payor. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

4. Implementation of order to withhold. Upon receipt of an order to withhold issued by the department, the employer or other payor shall immediately begin withholding from the income of the responsible parent the amount specified in the order. Sums withheld must be remitted to the department within 10 days of the date the responsible parent is paid. A person who honors an order to withhold issued under this section is discharged from any liability or obligation to the responsible parent for such property. The department warrants that it will defend and hold harmless any such persons for honoring the order.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

5. Priority of order. Withholding initiated under this section has priority over any other legal process under state law against the same wages.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

6. Termination of withholding. The withholding must be terminated with regard to a current support obligation if:

- A. The department is unable to forward funds to the obligee for 3 months. Funds not forwarded must be returned to the obligor and notice must be given to the obligor's employer or other payor to cease withholding; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- B. The child or spousal support obligation has been eliminated by a subsequent court order; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- C. The child has reached majority or has otherwise been emancipated; or [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- D. The child has been adopted. [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

The withholding may not be terminated while an arrearage remains, unless other provisions acceptable to the department for its repayment have been made.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 694, Pt. B, §2 (NEW). PL 1995, c. 694, Pt. E, §2 (AFF).

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