

EMPLOYER'S GUIDE TO INCOME WITHHOLDING FOR CHILD SUPPORT

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The Colorado Division of Child Support Services is proud to report that over \$400 million in child support payments have been collected in the state of Colorado during the 2012 calendar year, thus ensuring that thousands of children received the support to which they are entitled.

The Colorado Division of Child Support Services extends a sincere thank you to the employers of Colorado and the rest of the nation with out whose hard work and willing cooperation this amazing feat would not have been accomplished.



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DEFINITIONS

1. **COLORADO REVISED STATUTES (C.R.S.)**
The positive statutory law of Colorado of a general and permanent nature enacted and revised by the Colorado General Assembly - The official statutes of the State of Colorado, §2-5-101, C.R.S.
2. **SUPPORT**
Alimony (spousal support), medical support and child support are all included under the general heading of "support". By Federal and State law and regulation, the Child Support Services Program (CSS) is authorized to enforce and collect all three of these forms of support.
3. **ARREARS**
A general heading that for the purpose of income withholding for support, includes all support amounts other than the current monthly support amount. This includes unpaid delinquent support, retroactive support granted under a support order, public assistance funds required to be reimbursed to the state and may include interest.
4. **DISPOSABLE EARNINGS:**
§13-54-104(1)(A), C.R.S. - Disposable earnings means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld and after the deduction of the cost of any health insurance provided by the employee pursuant to §14-14-112, C.R.S. In the case of an order for the support of a spouse, former spouse, or dependent child, disposable earnings includes moneys voluntarily deposited in tax-deferred compensation funds.
5. **EARNINGS/INCOME:**
§14-14-102, 13-54-104 and 13-54-101, C.R.S. define earnings/income as:
 - Compensation paid or payable as income, salary, commission or bonus,

- Funds held in or payable from any health, accident or disability insurance,
- Workers' Compensation Benefits
- Payment to an independent contractor for labor or services,
- Dividends,
- Severance pay,
- Royalties,
- Monetary gifts,
- Monetary prizes (excluding lottery winnings not required to be paid only at the lottery office),
- Taxable distributions from general partnerships, limited partnerships, closely held corporations or limited liability companies,
- Interest,
- Trust income,
- Annuities,
- Capital gains.
- Rents,
- Any pension or retirement benefits, including but not limited to those paid pursuant to article 64 of title 22, articles 51, 54, 54.5, 54.6 and 54.7 of title 24 and article 30 of title 31, and §35-65-402, C.R.S.,
- Any funds held in or payable from any health, accident, disability or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages,
- Tips declared by the employee for purposes of reporting to the federal internal revenue service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked.

6. FAMILY SUPPORT REGISTRY:

§26-13-114, C.R.S. created Colorado's central payment processing facility or State Disbursement Unit (SDU). The SDU is called the Family Support Registry (FSR). All child support payments are remitted to this central facility except when the income withholding order is from another state and directs support payments to that state's SDU. Child support payments must be paid through the FSR, regardless of whether the child support order is being enforced by the CSS office.

7. GARNISHMENT:

Issued by the obligee or the obligee's representative (rarely issued by the CSS office). A one time or continuous withholding of money to repay a judgment for past due child support (arrearages).

8. INCOME ASSIGNMENT or INCOME WITHHOLDING ORDER:

Issued by the obligee, the obligee's representative or the CSS office. Must be the standard federally approved form regardless of who issued the document. If the form is not the standard federally approved form the employer or other payer of funds must return the form to the issuer. Orders an employer or other payer of funds to withhold income for support and provides the amount to withhold, when to start withholding, when to remit payment and where to remit payment. Also provides contact information. Neither a judgment nor a court signature/seal is required for this notice. However, pursuant to §14-14-111.5(4), orders to withhold income for support not issued by the CSS office must be accompanied by a certified copy of the child support order.

9. NATIONAL MEDICAL SUPPORT NOTICE (NMSN):

Issued by the CSS office. The notice advises employers that the child(ren) included in the child support order must be enrolled in a health insurance plan and that deductions must be withheld for the premiums. Pursuant to §14-14-112(2)(d) C.R.S., the notice constitutes a significant life change requiring immediate enrollment.

10. OBLIGEE:

The individual to whom child support is ordered to be paid. May be either of the parents or another caretaker.

11. OBLIGOR:

The individual ordered to pay child support. May be either parent.

12. REDIRECT NOTICE:

Issued by the CSS office through the FSR. Advises employers or other payers of funds that child support payments must begin to be remitted to the FSR.

13. REVIEW & ADJUSTMENT or MODIFICATION:

Either parent, a caretaker or in some instances, the CSS office itself, may request that the CSS office review the child support order for a possible modification of the existing support amount. Parents or a caretaker may also elect to directly contact the court for a modification. When a modification is granted, an amended income assignment with the new support amount will be issued to the employer.

14. UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA):

The Federal ACT passed in 1992, which created the ability for child support enforcement cases to be efficiently enforced across state lines. All states were required to enact UIFSA by January 1, 1998. The State of Colorado passed Article 5 of Section 14, C.R.S. as enabling legislation on January 1, 1995.

TYPES OF CHILD SUPPORT INCOME WITHHOLDING

1. **TITLE IV-D CHILD SUPPORT ENFORCEMENT CASES:**

Title IV-D of the Social Security Act created the child support enforcement and services program. A caretaker, the parent living with the child(ren) or the parent not living with the child(ren) are all eligible to apply to open a IV-D child support enforcement case at their local county CSS office. Or, when a parent or a caretaker applies for and qualifies for public assistance on behalf of the child(ren) covered by the child support order, a IV-D child support enforcement case is automatically created. The CSS office will initiate the order to withhold income for support to the employer of whichever parent is ordered to pay child support.
2. **NON-TITLE IV-D CHILD SUPPORT ENFORCEMENT CASES:**

When the parents or a caretaker are not receiving public assistance, they may elect to not receive child support enforcement assistance from the CSS office. In that case, they also may elect to enforce the child support order privately, either on their own or through an attorney, and issue the order to withhold income for support to the employer or other payer of funds. Payments are still required to be remitted to the FSR. Also, as outlined in Definition Number 6, for cases of this type, a certified copy of the child support order must accompany all orders to withhold income for support.
3. **DIRECT INCOME WITHHOLDING FROM OTHER STATES, EITHER FROM A CSS OFFICE OR FROM AN OBLIGEE OR AN OBLIGEE'S REPRESENTATIVE:**

As of January 1, 1995, CSS offices, parents, caretakers and attorneys in other states may initiate an order to withhold support directly to employers located in Colorado (See Definition Number 11).

FREQUENTLY ASKED QUESTIONS

EMPLOYER'S RESPONSIBILITIES

1. **HOW WILL I BE INFORMED THAT I HAVE TO START WITHHOLDING CHILD SUPPORT FROM AN EMPLOYEE'S INCOME?**

You will receive the order to withhold income for support as described in the Definitions Section of this guide.

2. **WILL I HAVE TO TELL AN EMPLOYEE THAT I AM GOING TO BEGIN WITHHOLDING CHILD SUPPORT?**

Yes. If the designated field or box is checked on the form, you must provide a copy of the order to withhold income for support and a copy of the NMSN (if applicable) to the employee.

3. **HOW WILL I KNOW WHEN TO STOP WITHHOLDING?**

§14-14-111.5(4)(k), C.R.S. states that the order to withhold income for support shall not be terminated or modified, except upon written notice by the obligee, the obligee's representative, the delegate child support enforcement unit (CSS office), or the court, depending upon which agency issued the order.

4. **MAY I TERMINATE AN EMPLOYEE OR REFUSE TO HIRE SOMEONE BECAUSE THEY HAVE CHILD SUPPORT WITHHOLDING AGAINST THEIR INCOME?**

No. §14-14-111.5 (4)(i), (8)(c) and (9), C.R.S. state that the employer, trustee, or other payer of funds shall be subject to a fine determined under state law for discharging an obligor from employment, refusing to employ, or taking disciplinary action against an obligor because of an order to withhold income for support and that any employer who discharges, refuses to hire, or takes disciplinary action against an employee because of the entry or service of an income assignment may be held in contempt of court or be subject to a fine. Also, provision is made that if an employer discharges an employee in violation of the provisions of this law, the employee may, within ninety days,

bring a civil action for the recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall be lost wages not to exceed six weeks, costs, and reasonable attorney fees.

5. WHAT WILL HAPPEN IF I DON'T HONOR THE ORDER TO WITHHOLD INCOME FOR SUPPORT?

§14-14-111.5 (4)(h), C.R.S. states that if the employer, trustee, or other payer of funds fails to withhold income as the order to withhold income for support directs, the employer, trustee, or other payer of funds shall be liable for both the accumulated amount that should have been withheld from the obligor's income and any other penalties set by state law. This may include a Contempt of Court action.

6. WHAT ABOUT COSTS TO ME ASSOCIATED WITH HONORING AN ORDER TO WITHHOLD INCOME FOR SUPPORT?

§14-14-111.5(4)(c)(II), C.R.S. states that the employer, trustee, or other payer of funds may deduct a fee to defray the cost of withholding and that such employer, trustee, or other payer of funds shall refer to the laws governing the work state of the employee for the allowable amount of such fee. §14-14-111.5(16.7), C.R.S. states that the employer, trustee, or other payer of funds may extract a processing fee of up to five dollars per month from the remainder of the obligor's income after the deduction and withholding of child support.

7. WHAT IF AN EMPLOYEE TERMINATES?

§14-14-111.5(4)(j), C.R.S. states that the employer shall notify the FSR, in writing (if payments are required to be made through the FSR), promptly after the obligor terminates employment and shall provide the FSR, in writing, with the obligor's name, date of separation, case identifier which shall be the FSR account number, last-known home address, and the name and address of the obligor's new employer, if known.

8. WHAT IF AN EMPLOYEE IS LATER REHIRED?

If you still have the original order to withhold income for support on file and you did not receive notice to terminate the withholding, then you should again begin honoring the terms of the order. If you are unsure that child support is still owed or

whether the terms are still the same, you should contact the issuer of the order to withhold income for support. The name and telephone number of the issuer should be displayed on the order to withhold income. If you no longer have the original order to withhold income for support, and are uncertain if the case was a IV-D case or a Non-IV-D case, you may contact the CSS office at 303-866-4300. The CSS office will be able to at least confirm whether there is a IV-D case, and if so, ensure that a new order to withhold income is generated.

9. DOES AN ORDER TO WITHHOLD INCOME FOR SUPPORT TAKE PRECEDENCE OVER OTHER ORDERS TO WITHHOLD INCOME?

§14-14-111.5(4)(j.5) and (6)(a), C.R.S. state that the order to withhold income for support has priority over any other legal process under state law against the same income including any garnishment, attachment or lien, except that federal tax levies in effect before the receipt of the order to withhold income for support would have priority.

10. IS THERE A PENALTY TO A PERSON WHO FRAUDULENTLY SENDS AN ORDER TO WITHHOLD INCOME FOR SUPPORT?

Yes. §14-14-111.5(4)(n) and (19), C.R.S. state that a fraudulent submission of an order to withhold income for support shall subject the person submitting the order to an employer, trustee, or other payer of funds, to a fine of not less than one thousand dollars and court costs and attorney fees.

11. WHERE DO I SEND THE CHILD SUPPORT THAT I HAVE WITHHELD?

All income withholding orders must direct child support payments to the SDU (in Colorado that would be the FSR). The payment or remittance address appears on order to withhold income for support. Income withholding orders from other states will direct the payment to their state's SDU. If you are currently honoring an older income withholding order that directs payments other than the SDU (either to the parent or to another entity) you may eventually receive a Redirect Notice. If so, you must comply with that order (see Definition Number 10).

12. WHAT ADDITIONAL INFORMATION MUST I SUBMIT TO THE CSS OFFICE?

§14-14-111.5(16.3), C.R.S. states that the employer, trustee, or other payer of funds shall include with the first disbursement an indication of whether dependent health insurance coverage is available to the obligor and whether the obligor has elected to enroll the dependents who are the subject of the order in such coverage and that such information shall be included in a disbursement at least annually thereafter or at the next disbursement in the event of any change in the status of health insurance availability or coverage. If you have also received a NMSN, §26-13-121.5 C.R.S. provides directions concerning the information and/or documents related to health insurance coverage that must be returned to the CSS office or to the issuing agency.

13. WHAT DO I DO IF MY PAY PERIODS ARE NOT THE SAME FREQUENCY AS THE ORDER?

§14-14-111.5(4)(c)(I), C.R.S. states that if the pay periods of the employer are more frequent than indicated on the order to withhold income for support, the employer shall withhold per pay period an appropriate percentage of the monthly amount due so that the total withheld during the month will total the monthly amount due. The amount withheld **MUST** equal the monthly amount due. To address this situation, the CSS office automatically populates the "other" field on the income assignment with an additional amount that is mathematically calculated to ensure that full monthly amount due will be withheld and remitted. This amount is automatically included in the amounts listed in the "Weekly" and "Biweekly" fields of the income assignment.

14. MAY I COMBINE ALL THE DEDUCTIONS I MAKE FOR CHILD SUPPORT IN ONE PAY PERIOD FOR ALL EMPLOYEES AND REMIT ONE CHECK?

Yes. §14-14-111.5(4)(d)(III) and (IV), C.R.S. state that payments may be combined into a single payment to the FSR, if they are all required to be sent to the FSR and if the individual amount of each disbursement is identified by the case number, the name and social security number of each obligor, the date

the deduction was made, the amount of the payment, and the FSR account number.

15. DO I HAVE TO WITHHOLD FROM MONEY I PAY TO CONTRACTORS AND SUB-CONTRACTORS?

Yes. §13-54-104, 14-10-115 and 14-14-102, C.R.S. include payments made to independent contractors in the definition of funds from which child support must be withheld (see Definition #5).

FINANCIAL QUESTIONS

16. IS THERE ANY LIMIT TO THE AMOUNT THAT CAN BE WITHHELD AND HOW DO I CALCULATE THAT AMOUNT?

Yes. The Consumer Credit Protection Act (CCPA) and the corresponding Colorado law, §13-54-104, C.R.S., limit the total eligible amount that may be withheld from an employee's disposable earnings. Maximum percentages are summarized as follows:

- 65%: If the obligor is not supporting other dependents and the child support arrears are more than 12 weeks old,
- 60%: If the obligor is not supporting other dependents and the child support arrears are less than 12 weeks old,
- 55%: If the obligor is supporting other dependents and the child support arrears are more than 12 weeks old
- 50%: If the obligor is supporting other dependents and the child support arrears are less than 12 weeks old.

You must find out from the employee whether there are other dependents being supported by the employee. The age of the arrears should be indicated on the order to withhold income for support (it is unlikely that any child support arrears are less than 12 weeks old). If the amount specified on the order to withhold income for support is greater than the maximum eligible percentage permitted by law, then only the maximum

eligible amount may be deducted, even if the employee has multiple orders to withhold income for support (see Question Number 17 below).

17. HOW SHOULD I CALCULATE THE AMOUNT TO BE WITHHELD IF AN EMPLOYEE HAS MORE THAN ONE ORDER TO WITHHOLD INCOME FOR SUPPORT AND THE ELIGIBLE PORTION OF THE DISPOSABLE INCOME IS NOT ENOUGH TO COVER ALL OF THE OBLIGATIONS?

§14-14-111.5(6), C.R.S. states that employers are required to prorate payments and outlines the priority scheme you must use when calculating the amount to withhold from an employee's disposable income. The FSR does not have the capability to prorate payments. The priority scheme is summarized below:

- *FIRST PRIORITY:* Monthly current child support (and maintenance when combined with child support) must be paid first,
- *SECOND PRIORITY:* Monthly specific medical support amounts ordered by the court (*not* health insurance premiums) must be paid second,
- *THIRD PRIORITY:* Monthly amounts for debt, arrears and/or retroactive support must be paid third,
- *FOURTH PRIORITY:* Monthly amounts for maintenance (separate from child support) must be paid last.

FIRST PRIORITY: Add together all of the monthly current child support due, from all of the orders, to obtain the total monthly current child support amount due. Divide each individual monthly current child support amount by the total monthly current child support amount to find the percentage each individual order represents of the total monthly current child support amount. Multiply the maximum eligible disposable income by each percentage to obtain the amount to be sent for each order.

SECOND PRIORITY: Add together all of the monthly specific medical support amounts, from all of the orders, to obtain the total monthly specific medical support amount due. Divide each individual monthly specific medical support amount by the total monthly specific medical support amount to find the percentage each individual order represents of the total monthly specific medical support amount. Multiply the maximum eligible disposable income by each percentage to obtain the amount to be sent for each order.

THIRD PRIORITY: Add together all of the arrears balances, not the MADS (monthly arrears payments), from all of the orders, to obtain the total arrears balance due. Divide each individual arrears balance by the total arrears balance to find the percentage each individual order represents of the total arrears balance due. Multiply the maximum eligible disposable income by each percentage to obtain the amount to be sent for each order.

FOURTH PRIORITY: Add together all of the monthly maintenance due, from all of the orders, to obtain the total monthly maintenance amount due. Divide each individual monthly maintenance amount by the total monthly maintenance due to find the percentage each individual order represents of the total monthly maintenance amount. Multiply the maximum eligible disposable income by each percentage to obtain the amount to be sent for each order.

NOTE: The "Other" amount on the income assignment should be included in the current support amount if the order includes current support, or in the arrears payment amount if the order is arrears only.

EXAMPLE:

The employee has monthly disposable income of \$1,200 and the maximum withholding limit that applies to the employee is 55%. The employee has the following monthly child support amounts due:

	Case #1	Case #2	Case #3
Amount due			
Current:	\$ 400	\$ 0	\$ 300
Medical:	\$ 0	\$ 0	\$ 100
MAD:	\$ 50	\$ 100	\$ 50
Total monthly due			
On each case:	\$ 450	\$ 100	\$ 450
(Arrears Balances:	\$3,000	\$5,000	\$1,000)

Total monthly due between all three cases: \$1000.00
Total eligible disposable income: \$ 660.00

There is not enough eligible monthly disposable income to cover the entire monthly amount due on all of the orders. Pursuant to the statute referenced above, current support should then be paid first, but there is not even enough to cover the total current support amount of \$700.00 in full.

Following the statutory directions above, the total current support should be divided into each case's monthly current support amount, to obtain the percentage of the total that each case represents:

Case Number 1:
 $\$400$ divided by $\$700 = 57\%$
Case Number 3:
 $\$300$ divided by $\$700 = 43\%$.

The resulting percentages are applied to the eligible disposable income as follows:

Case Number 1:
 $\$660 \times 57\% = \376.20
Case Number 3:
 $\$660 \times 43\% = \283.20

Statutorily, Case Number 2 receives nothing and nothing is paid on the arrears for Case Number 1 and Case Number 3 and

nothing is paid on the medical support for Case Number 3. The employee must make up both the difference in the current support amounts but also the arrears (MAD) payments and the medical support payment.

Situations where there is enough eligible disposable income to cover all current support, but not enough to cover all of the arrears (MAD) payments, should be handled as follows:

EXAMPLE:

The employee has monthly disposable income of \$1,600 and the maximum withholding limit that applies to the employee is 55%. The employee has the following monthly child support amounts due:

Income

	Case #1	Case #2	Case #3
Amount due			
Current:	\$ 400	\$ 0	\$ 300
Medical:	\$ 0	\$ 0	\$ 100
MAD:	\$ 50	\$ 100	\$ 50
Total monthly due			
On each case:	\$ 450	\$ 100	\$ 450
(Arrears Balances:	\$3,000	\$5,000	\$1,000)

Total monthly due between all three cases:	\$1000.00
Total eligible disposable income:	\$ 880.00

There is not enough eligible monthly disposable income to cover the entire monthly amount due on all of the orders. Pursuant to the statute referenced above, current support should be paid first:

Eligible disposable income:	\$880
Total current support:	<u>-\$700</u>
Total amount remaining:	\$ 180

Following the statutory directions above, medical support is paid next:

Remaining eligible disposable income:	\$180
Medical support amount:	<u>\$100</u>
Total amount remaining:	\$ 80

Following the statutory directions above, arrears are paid next and the total arrears balance (not the arrears payment or MAD) should be divided into each case's arrears balance, to obtain the percentage of the total that each case represents:

Case Number 1:
 $\$3,000$ divided by $\$9,000 = 33\%$
 Case Number 2:
 $\$5,000$ divided by $\$9,000 = 56\%$
 Case Number 3:
 $\$1,000$ divided by $\$9,000 = 11\%$

The resulting percentages are applied to the remaining amount of the eligible disposable income as follows:

Case Number 1:
 $33\% \times \$80 = \26.40
 Case Number 2:
 $56\% \times \$80 = \44.80
 Case Number 3:
 $11\% \times \$80 = \$ 8.80$

These amounts should be added to the current support amounts and the medical support amounts being paid on each of the cases. The employee must make up the difference in the arrears payments (MAD).

18. HOW SHOULD I HANDLE THE TIPS THAT AN EMPLOYEE RECEIVES?

§14-14-111.5(16.5), C.R.S. states that an employer is not required to collect, possess, or control the obligor's tips, and any such tips shall not be owed by an employer to an obligor. However, you must use the tips declared or imputed by the employee to calculate the total income in order to determine the disposable income. There probably will not be enough actual money paid to the employee as salary to cover the full amount of child support due, so you will have to remit the amount available, and the employee will have to make up the difference by direct payments to the FSR. This could mean that the entire pay amount that you would have ordinarily paid to the employee will actually have to be remitted to the FSR.

Here is an example of how this situation might look:

Monthly child support amount:	\$175
Actual income to be paid to employee:	\$180
Tips declared by employee:	<u>\$300</u>
Total gross income for calculation purposes:	\$480
Minus statutory deductions	
Federal tax:	\$ 25
FICA:	\$ 40
State tax:	<u>\$ 15</u>
Total deductions:	\$ 80
Leaving total disposable earnings (including tips declared by the employee) for <u>calculation</u> purposes:	\$400
Maximum withholding limit calculation:	
Disposable income times 65% (see #15)	\$400
	<u>X65%</u>
Maximum amount that may be withheld:	\$260
Actual amount of money directly controlled	

by employer (actual income of \$180 minus
the statutory deductions of \$80): \$100

Amount to be remitted to the FSR: \$100

The entire amount of \$100 that ordinarily would have been paid to the employee would instead be remitted to the FSR and the employee would not receive a paycheck. This is because the \$100 is well below the 65%, or \$260 maximum, of the employee's disposable income (which includes the tips) that is eligible to be deducted and is also well below the ordered \$175 monthly child support amount. The employee is responsible for paying the remaining \$75 that is owed for child support and presumably, will be able to do so from the amount of tips received.

If full payment is not received each month, between what the employer deducts and remits and what the employee sends in, then enforcement actions may begin to take place, at the discretion of the CSS office. The employee needs to work with the CSS office to handle this situation.

For more details and directions on calculating the maximum withholding limits, see Question Number 15.

19. HOW SHOULD I HANDLE THE MONEY THAT AN EMPLOYEE IS PUTTING INTO A TAX DEFERRED PLAN?

You must first subtract the tax-deferred amount before calculating the amount of the taxes to be paid. You then must add the tax-deferred amount back into the income before calculating the maximum child support to be deducted. §13-54-104 (1)(a), C.R.S. states that tax-deferred money is included in disposable income. Child support must be paid first, before any deferment.

20. WHAT SHOULD I DO IF AN EMPLOYEE QUALIFIES FOR ADDITIONAL MONEY, SUCH AS A BONUS, COMMISSION OR SEVERANCE PAY?

You must withhold and remit 50% of the lump sum's disposable income, up to the arrears balance. You must contact the CSS

office or the issuing agency to obtain the arrears balance in order to determine how much of the lump sum payment should be remitted. If there are no arrears owed, then no additional child support withholding from the lump sum would be necessary.

EMPLOYEE QUESTIONS OR OBJECTIONS

21. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THEY HAVE FILED BANKRUPTCY?

You may advise the employee to contact the CSS office or the issuing agency and you should continue to withhold until notified otherwise.

22. WHAT IF AN EMPLOYEE TELLS ME THAT THE AMOUNTS I AM WITHHOLDING ARE INCORRECT?

You should check your calculations to ensure that you are complying with the terms of the income withholding order and that you have not exceeded the maximum withholding limits. If your calculations are correct, you may advise the employee to contact the CSS office or the issuing agency for clarification. You should continue to withhold until notified otherwise.

23. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THEY WANT TO MAKE VOLUNTARY PAYMENTS FOR CHILD SUPPORT?

You may advise the employee to contact the CSS office or the issuing agency and you should continue to withhold until notified otherwise.

24. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THE CUSTODIAL PARENT OR CARETAKER (OBLIGEE) IS NOT RECEIVING THE PAYMENTS?

You may advise the employee to contact the CSS office or the issuing agency and you should continue to withhold until notified otherwise. It is possible that the obligee is receiving public assistance benefits and if so, by law, they are not eligible to

receive the child support payments which are retained by the state to repay the public assistance being expended to support the employee's children. If public assistance is not the case, the CSS office or the issuing agency will provide directions to the employee and to the obligee on how to handle the situation.

25. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THE FSR DID NOT RECEIVE A PAYMENT?

You should contact the FSR (see Contact Information Section) to verify that a payment is missing. You may need to research the status of the payment. If your records indicate that the payment has cleared your bank, you will need to contact the FSR to provide the payment information so that the FSR can locate and apply the missing payment. If your records do not indicate that the payment has cleared, you may need to issue a "stop pay" and re-issue the payment. Before doing so, you should always contact the FSR to obtain directions.

26. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THEY ARE EXPERIENCING ENFORCEMENT ACTIONS SUCH AS DRIVER'S LICENSE SUSPENSION OR BANK ACCOUNT SEIZURE?

By law, many enforcement actions occur even though payments are being received. Often, enforcement actions are the result of missed payments from time periods before you began withholding from the employee's pay. Some enforcement actions occur based simply upon the existence of an arrears balance and are not related to whether or not a payment is being received each month. You may advise the employee to contact the CSS office or the issuing agency to discover what the exact situation is. It may be a good idea for you to contact the FSR to verify that payments are being received and to take the necessary steps if it is determined that a payment(s) has not been received (see Question Number 24). You have no other obligation in this area and you should continue to withhold until notified otherwise.

27. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THEY CAN'T AFFORD TO LIVE AND STILL PAY CHILD SUPPORT?

You may advise the employee to contact the CSS office or the issuing agency to discuss requesting a review and adjustment for a possible modification of the child support order or to find out if any alternative arrangements can be made. You have no other obligation in this area and you should continue to withhold until notified otherwise.

28. WHAT SHOULD I DO IF AN EMPLOYEE TELLS ME THAT THEIR CHILD SUPPORT ORDER IS BEING MODIFIED?

You should continue to withhold until you receive the new or amended order to withhold income for support from the CSS office or the issuing agency. Even though the CSS office will make every effort to ensure that a new income withholding order is issued, it is ultimately the employee's responsibility to ensure that you have received a new or amended order to withhold income for support. A modification of a child support order can take six months or longer, and until the new child support order has been signed by the court, the existing child support order remains in effect.

29. WHAT DO I DO IF AN EMPLOYEE TELLS ME THAT THEY ARE UNABLE TO OBTAIN A PASSPORT FOR COMPANY RELATED TRAVEL?

A child support passport hold is based simply upon the existence of an arrears balance and is not related to whether or not payments are being received each month. Usually, child support arrears must be paid in full before a passport hold is released. Many employers voluntarily elect to make a loan to an employee to pay off the child support arrears so that the employee may obtain a passport. This is entirely between you and the employee and is based solely upon your company's policies. You may advise the employee to contact the CSS office or issuing agency to try and negotiate an arrangement if they so desire, but you should continue to withhold until notified otherwise.

HEALTH INSURANCE QUESTIONS

- 30. HOW WILL I BE INFORMED THAT I HAVE TO ENROLL AN EMPLOYEE'S CHILD(REN) IN A HEALTH INSURANCE PLAN AND BEGIN DEDUCTING FOR INSURANCE PREMIUMS?**

§26-13-121.5, C.R.S. states that you will receive the NMSN (see Definition Number 6 in the Definitions Section).

- 31. WHAT IF AN EMPLOYEE IS NOT CURRENTLY ENROLLED IN A HEALTH INSURANCE PLAN AVAILABLE THROUGH MY COMPANY?**

§26-13-121.5(5)(d), C.R.S. states that if the employee does not select a plan during the process, you must enroll the child(ren) subject to the child support order into the least costly plan available to the employee.

- 32. DOES "LEAST COSTLY" MEAN LEAST COSTLY TO THE EMPLOYEE OR TO THE EMPLOYER?**

It means least costly to the employee.

- 33. WHAT IF AN EMPLOYEE WANTS TO ENROLL ONLY THE CHILD(REN)?**

It is acceptable to enroll only the child(ren) into an insurance plan, if that is permitted by the insurance plan. However, most policies require that the employee be included on the insurance plan. If that is the case, the employee has no choice but to be enrolled into the plan also.

- 34. WILL THE INSURANCE COMPANY ALLOW ME TO ENROLL THE CHILD(REN) IF IT IS NOT DURING OPEN ENROLLMENT?**

Yes. §14-14-112(2)(d), C.R.S., states that the deduction for health insurance is treated as a significant life change.

- 35. WHAT IF AN EMPLOYEE TELLS ME THAT THEY ARE PROVIDING HEALTH INSURANCE THROUGH OTHER MEANS?**

§14-14-112 (h)(II) & (k), C.R.S. specifies that an employer may cease coverage or refuse to enroll the child(ren) if the obligee provides written proof that the child(ren) is enrolled in a comparable health insurance plan that takes effect no later

that the date the child(ren) is to be no longer enrolled in the employer plan or no later than the date the child(ren) is to be enrolled in the employer plan. The employer must provide this information to the CSS office within 14 days.

36. WHAT IF AN EMPLOYEE TELLS ME THAT THEY CANNOT AFFORD THE INSURANCE PREMIUMS?

§14-10-115(10)(g), C.R.S. Defines reasonable cost when applied to an insurance premium, and §26-13-121.5(5)(e), C.R.S. states that if an employee's situation meets that definition, the employee may file an objection to the deduction for the insurance premium with the court. You must continue to withhold until notified otherwise.

37. WHEN DO I BEGIN WITHHOLDING THE INSURANCE PREMIUM FROM AN EMPLOYEE'S INCOME?

§26-13-121.5, C.R.S. states that withholding for health insurance premiums is to begin no later than 40 days after the mailing date of the NMSN.

38. ARE HEALTH INSURANCE PREMIUMS DEDUCTIBLE BEFORE CALCULATING DISPOSABLE INCOME?

Yes. See Definition Number 2.

39. WHERE DO I SEND THE HEALTH INSURANCE PREMIUMS THAT I HAVE WITHHELD FROM AN EMPLOYEE'S INCOME?

§26-13-121.5, C.R.S. states that health insurance premiums are paid directly to the insurance carrier.

40. AM I REQUIRED TO NOTIFY THE CSS OFFICE IF THE INSURANCE PREMIUMS CHANGE OR IF THE INSURANCE COVERAGE CEASES?

Yes. §14-14-111.5(16.3) C.R.S. specifies that health insurance information must be provided either annually or with the first disbursement (payment) following any change in the status of health availability or coverage. §14-14-112(2)(k), C.R.S. requires that the employer notify the CSS office within 14 days after the termination of coverage and §14-14-112(2)(g) C.R.S. also requires that the employer shall notify the CSS office in writing within ten days after the obligor terminates employment.

INTERGOVERNMENTAL CASES

42. IF I RECEIVE AN ORDER TO WITHHOLD INCOME FOR SUPPORT FROM ANOTHER STATE CSS OFFICE OR FROM AN OBLIGEE OR OBLIGEE'S REPRESENTATIVE LOCATED IN ANOTHER STATE, AM I REQUIRED TO HONOR THE ORDER?

Yes. Article 5 of Section 14, C.R.S. was enacted in 1995 to implement UIFSA (see Definition Number 11 in the Definitions Section).

§14-5-502, C.R.S. requires that the following actions occur upon receipt of an order to withhold income for support from another state:

- Process the order issued in another state if it appears regular on its face as if it had been issued in this state,
- Immediately provide a copy of the order to the employee,
- Distribute withheld funds as directed in the order.

According to §14-5-506, C.R.S. if an employee contests the validity or the enforcement of an order to withhold income for support from the other state, the employee must give notice of the contest to:

- The CSS office or agency that issued the order,
- Each employer that has received the order,
- The recipient of the payments.

You must continue to honor the order to withhold income for support during the time period the contest is taking place until notified otherwise.

43. DO I FOLLOW THE INCOME WITHHOLDING LAWS OF COLORADO OR OF THE OTHER STATE?

§14-5-502(5)(d), C.R.S. states that an employer shall comply with the applicable laws of the state of the obligor's principal place of employment for withholding from income in the areas of: The employer's fee, the maximum amount permitted to be withheld from income and the time frames regarding when to

begin withholding and when to remit payment. The inference is that all other situations would be governed by the law of the state where the order was issued.

44. WILL I BE SUBJECT TO CIVIL LIABILITY FOR COMPLYING WITH ANOTHER STATE'S ORDER TO WITHHOLD INCOME FOR SUPPORT?

No. §14-5-504, C.R.S. states that an employer or other payer of funds is not subject to civil liability for complying with an income withholding order.

45. WHAT WILL HAPPEN IF I DON'T HONOR ANOTHER STATE'S ORDER TO WITHHOLD INCOME FOR SUPPORT?

§14-5-505, C.R.S. states that an employer or other payer of funds is subject to penalty for failing to comply with the order (see Question Number 5).

46. WHAT DO I DO IF I RECEIVE AN ORDER TO WITHHOLD INCOME FOR SUPPORT FROM BOTH COLORADO AND ANOTHER STATE, AND THE ORDERS ARE FOR THE SAME CHILD(REN)?

You should contact the CSS office or the issuing agency for clarification. It is possible that an error has occurred but it is also possible that the obligee lived in another state prior to living in Colorado and one of the orders may be for arrears only. You can usually determine this by checking each order to verify the terms of each order. Often, one order will be for arrears only and the other will be for current support and/or subsequent arrears. It is also possible that the custody of the children may have changed and there may be a new obligee, such as a grandparent or other caretaker. And, of course, it is always possible that the obligee may have moved from Colorado to another state and neglected to advise the CSS office of the change.

The CSS office or the issuing agency should be able to clarify the matter and/or correct any errors that may have occurred.

WORKERS' COMPENSATION

47. **WHAT DO I DO IF I RECEIVE AN ORDER TO WITHHOLD INCOME FOR SUPPORT AND THE EMPLOYEE IS RECEIVING WORKERS' COMPENSATION BENEFITS FOR WHICH THERE IS A CHILD SUPPORT WORKERS' COMPENSATION LIEN AND ATTACHMENT IN PLACE?**

You should begin honoring the order to withhold income for support, as usually this situation will only occur when the employee is receiving temporary partial workers' compensation benefits but has also been approved to return to regular work duties on a minimal basis. You must make certain that you do not exceed the maximum withholding amounts as outlined in Question Number 15.

It may be a good idea to advise the employee to contact the CSS office or the issuing agency, or you may do so yourself, to clarify the situation and to ensure that no alternative arrangements need to be made. If any adjustments to either the income withholding or to the workers' compensation attachment are necessary, you will be notified.

CONTACT INFORMATION

COLORADO DIVISION OF CHILD SUPPORT SERVICES

1575 Sherman Street
Denver, Colorado 80203
Tel 303-866-4300
Fax 303-866-4359
www.childsupport.state.co.us

FAMILY SUPPORT REGISTRY (FSR) payment address

P.O. BOX 2171
Denver, Colorado 80201-2171
Overnight Payment Address:
PMB 262
1550 Larimer Street
Denver, Colorado 80202
Tel 303-299-9123 or 800-374-6558
Fax 303-299-9122

CDHS_FSRcustomerService@state.co.us

FAMILY SUPPORT REGISTRY EMPLOYER OUTREACH CUSTOMER SERVICE

Tel 303-297-2849 or 800-696-1468
CDHS_FSREmployerServices@state.co.us

DIRECTORY OF NEW HIRES

P.O. BOX 2920
Denver, Colorado 80201-2920
Tel 303-297-2849
Fax 303-297-2595
www.newhire.state.co.us

CHILD SUPPORT SERVICES WORKERS' COMPENSATION ATTACHMENTS

Tel 303-866-4339
Fax 303-866-4380

FEDERAL OFFICE OF CHILD SUPPORT ENFORCEMENT

www.acf.hhs.gov
Employer Services

TELEPHONE NUMBERS COUNTY CSS OFFICES

ADAMS COUNTY 303-227-2233	CONEJOS COUNTY 719-376-5455	FREMONT COUNTY 719-269-2339	LAKE COUNTY 719-486-4155	MORGAN COUNTY 970-542-3530	SAGUACHE COUNTY 719-655-2537
ALAMOSA COUNTY 719-589-2581	COSTILLA COUNTY 719-672-4131	GARFIELD COUNTY 970-625-5282	LA PLATA COUNTY 970-382-6144	OTERO COUNTY 719-383-3100	SAN JUAN COUNTY 970-382-6144
ARAPAHOE COUNTY 303-752-8900	CROWLEY COUNTY 719-267-3546	GILPIN COUNTY 303-271-4300	LARIMER COUNTY 970-498-7600	OURAY COUNTY 970-252-4200	SAN MIGUEL COUNTY 970-252-4200
ARCHULETA COUNTY 970-264-2182	CUSTER COUNTY 719-783-2371	GRAND COUNTY 970-725-3331	LAS ANIMAS COUNTY 719-846-2276	PARK COUNTY 303-816-5934	SEDGWICK COUNTY 970-474-3397
BACA COUNTY 719-336-4131	DELTA COUNTY 970-874-2063	GUNNISON COUNTY 970-641-3244	LINCOLN COUNTY 719-743-2404	PHILLIPS COUNTY 970-854-2280	SUMMIT COUNTY 970-668-9160
BENT COUNTY 719-456-2620	DENVER COUNTY 720-944-2960	HINSDALE COUNTY 970-641-3244	LOGAN COUNTY 970-522-2194	PITKIN COUNTY 970-625-5282	TELLER COUNTY 719-686-5515
BOULDER COUNTY 303-678-6300	DOLORES COUNTY 970-677-2240	HUERFANO COUNTY 719-738-2810	MESA COUNTY 970-248-2780	PROWERS COUNTY 719-336-7486	WASHINGTON COUNTY 970-345-2238
BROOMFIELD COUNTY 720-887-2261	DOUGLAS COUNTY 303-814-7145	JACKSON COUNTY 970-725-3331	MINERAL COUNTY 719-657-3381	PUEBLO COUNTY 719-583-6160	WELD COUNTY 970-352-6933
CHAFFEE COUNTY 719-530-6627	EAGLE COUNTY 970-328-8840	JEFFERSON COUNTY 303-271-4300	MOFFAT COUNTY 970-824-8282	RIO BLANCO COUNTY 970-878-9640	YUMA COUNTY 970-332-4877
CHEYENNE COUNTY 719-767-5629	ELBERT COUNTY 303-621-3203	KIOWA COUNTY 719-438-5541	MONTEZUMA COUNTY 970-565-3769	RIO GRANDE COUNTY 719-657-3381	
CLEAR CREEK COUNTY 303-271-4300	EL PASO COUNTY 719-457-6330	KIT CARSON COUNTY 719-346-8732	MONTROSE COUNTY 970-252-4200	ROUTT COUNTY 970-870-5256	