

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 12: Enforcement	Effective Date: 4/22/2019
	Section 2.1: Income Withholding Orders	Version: 1 Revision Date: 4/8/2019

BACKGROUND

The Family Support Act of 1988 made several changes to the Aid to Families with Dependent Children program and child support programs. One key change introduced “immediate income withholding” to ensure regular payments are distributed to the obligee.¹ With the passage of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996, the Title IV-D agency was given the authority to administratively issue income withholding orders (IWO) using a uniform form as prescribed by the Secretary of the Department of Health and Human Services.²

In all Indiana child support proceedings where a court establishes, modifies, or enforces a child support order, the court is required to include in its order for immediate income withholding for child support payments, unless the court issues a stay of implementation.³ A stay of implementation may be ordered at the court’s discretion following a finding of good cause or based on the written agreement of the parties.⁴

In a Title IV-D case where the court does not order immediate income withholding and does not issue a stay of implementation, the Child Support Bureau (CSB) shall issue an IWO.⁵

DEFINITIONS

1. **“Delinquent”**, for the purposes of income withholding, means the obligor is in arrears in the amount equivalent to one (1) month of court ordered child support.⁶
2. **“Income”**, for the purposes of income withholding, means earnings or other periodic entitlements to money from any source, and any other property subject to withholding for child support under Indiana law.⁷
3. **“Income Payor”**, for the purposes of income withholding, means an employer or any other person who owes income to a child support obligor.⁸
4. **“Obligee”** means a person who is entitled to receive a payment under a support order.⁹

¹ P.L. 100-485

² 42 U.S.C § 666(c)(1)(F); 42 U.S.C. § 654(g)(1)(A)

³ IC 31-16-15-0.5; 42 U.S.C. § 666(a)(1)(A)

⁴ IC 31-16-15-0.5(c)

⁵ IC 31-16-15-2.5; IC 31-25-4-17(a)(4); 42 U.S.C. § 666(b)(2)

⁶ IC 31-9-2-36

⁷ IC 31-9-2-56

⁸ IC 31-9-2-57

⁹ IC 31-9-2-85

5. “**Obligor**” means an individual who has been ordered by a court to pay child support.¹⁰

POLICY

When the Title IV-D Prosecutor or CSB issues an initial IWO in a Title IV-D case, a Notice of Income Withholding (NOW) providing information about the IWO and details on how the obligor can contest implementation of the IWO is automatically issued to the obligor concurrently with the IWO issued to the income payor.¹¹ If required by local rules established by the Title IV-D Prosecutor, additional NOWs may be issued manually and concurrently with each subsequent IWO issued on the case.

Subsequent IWOs may be issued when:

1. The amount of current support has been modified;
2. Arrears have been adjudicated;
3. Unadjudicated arrears have increased and additional withholding for arrears is permitted by statute; or
4. A new income payor is identified.

REFERENCES

- [IC 31-9-2-36](#): “Delinquent”
- [IC 31-9-2-85](#): “Obligee”
- [IC 31-9-2-86](#): “Obligor”
- [IC 31-16-15](#): Child Support Income Withholding Orders
- [465 IAC 3-3-5](#): Review of child support hearing requests
- [15 U.S.C. § 1673](#): Restriction on garnishment
- [42 U.S.C. § 654a](#): Automated data processing
- [42 U.S.C. § 666](#): Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement
- [45 C.F.R § 303.100](#): Procedures for income withholding
- [PL 100-485](#): Family Support Act of 1988
- [PL 104-193](#): Personal Responsibility and Work Opportunity Act (PRWORA)

PROCEDURE

1. Issuance of Default IWOs

A default IWO is an IWO initiated by the statewide child support system after recognizing required criteria exists.

In a Title IV-D case where a child support obligation has been ordered or modified and where the court does not issue a stay of withholding, or where the court ordered stay is lifted by the Title IV-D agency at the obligor’s request or due to the obligor’s delinquency, the statewide child support system utilizes various triggers to determine when to automatically do the following:

¹⁰ IC 31-9-2-86

¹¹ IC 31-16-15-3.5(a); 42 U.S.C. § 666(b)(4)

- a. Generate a default IWO to issue to the income payor; and
- b. Generate a Notice of Income Withholding (NOW) to issue to the obligor (concurrently with the IWO issued to the income payor) where there is no record of a prior NOW issued for the case.

Default IWOs will either be printed and mailed/faxed or issued as an electronic IWO (e-IWO), depending on whether the income payor has opted to receive IWOs electronically. The Title IV-D Prosecutor's office will print and mail or fax hard copy IWOs to the income payor unless the office has chosen to have the documents printed centrally at the CSB.

- a. E-IWOs

For IWOs issued to income payors opting to receive e-IWOs, the statewide child support system will generate a paper copy of the e-IWO for the case file (unless the Title IV-D Prosecutor's office has chosen to have all IWOs printed centrally at CSB) and it will be issued to the income payor electronically. The generated paper copy of an e-IWO is not to be mailed to the income payor unless a paper copy is requested to resolve a problem.

E-IWOs require the recipient to acknowledge the receipt of the e-IWO with either:

- i. A rejection and a reason; or
- ii. An acceptance.

See the e-IWO Acknowledgements and Checking for e-IWO Instructions Guide for additional information.

- b. Mail or Fax IWO

Except for e-IWOs as outlined above, IWOs generated through the statewide child support system are:

- i. Printed at and mailed or faxed by the Title IV-D Prosecutor's office; or
- ii. Printed and mailed centrally if the Title IV-D Prosecutor's office has chosen to have those documents printed centrally at the CSB.

A daily report lists the cases where IWOs and NOWs were automatically produced.

For more information on statewide child support system's criteria for the issuance of default IWOs, see the ISETS Income Withholding Complete Guide.

2. Manual IWOs

Custom IWOs can also be created by the Title IV-D Prosecutor's office or CSB manually, and can be customized to amend the amounts to withhold and/or change the income payor to which the IWO is directed.

Other IWOs can be manually generated by the Title IV-D Prosecutor's office or by CSB to issue to income payors for income owed to obligors in the form of lump sums, funds in financial accounts, and proceeds from insurance claims.

If a manual IWO is generated for a case in which a previous NOW has never been provided, whichever party is issuing the manual IWO (the Title IV-D Prosecutor or CSB) shall also generate a NOW to be sent to the child support obligor.

3. Notice to Withhold Income (NOW)

A NOW shall be sent to the obligor when an initial IWO is generated by the statewide child support system (unless a stay of withholding was ordered by the court and is lifted based on the obligor's request for implementation of an IWO).¹² If required by local rules established by the Title IV-D Prosecutor, additional NOWs may be issued manually and concurrently with each subsequent IWO issued on the case.

The NOW provides notice to the child support obligor that income withholding has commenced and that an IWO will be sent to all current and future income payors. The NOW details the amount of child support arrears that exists on the case, if any.

The NOW also identifies that the amount of income to be withheld by the IWO, and provides the amount to be withheld by the income payor as the sum of the following: The amount of the obligor's current child support obligation; the amount of any court ordered payments toward arrears; the amount of any statutory payment toward unadjudicated arrears; and a \$2.00 fee to be paid by the obligor, at the income payor's option, for each payment forwarded by the income payor to the Indiana State Central Collection Unit (INSCCU).

The NOW provides the child support obligor with information on how to contest the initial IWO. The obligor is informed that the dispute must allege a mistake of fact and that a written request for review must be provided to CSB no more than 20 days after the NOW is issued.

3. Contesting Withholding Through Administrative Hearing

If the obligor wishes to contest the issuance of an IWO, within 20 days of the date the NOI is mailed, he or she may submit a written request for an administrative hearing to CSB. The only basis for contesting an IWO is that a "mistake of fact" has occurred. A mistake of fact, for the purposes of contesting an IWO, is either:

- a. An error in the amount of current or past due support listed in the NOI; or
- b. The identity of the obligor.¹³

See Chapter 12 Enforcement, Section 6 Administrative Hearings and Administrative Review.

5. Additional Withholding Amounts

If there is an adjudicated amount of arrears, there may be an amount withheld in addition to the amount ordered by the court. Furthermore, if any unadjudicated amount of arrears has accrued, the Title IV-D Prosecutor or the CSB may add the following

¹² IC 31-16-15-3.5(a); 42 U.S.C. § 666(b)(4)

¹³ 45 C.F.R. § 303.100(c)(2); IC 31-16-15-4.3; 465 IAC 3-3-3

additional amounts to the IWO.¹⁴ The statewide child support system automatically adds the following amounts when a default IWO is generated.

Unadjudicated Arrears Withholding Amount	
\$10.00-\$499.99	\$10.00 per week
\$500.00-\$2,999.99	\$20.00 per week
\$3,000.00-\$4,999.99	\$25.00 per week
\$5,000.00-\$9,999.99	\$30.00 per week
\$10,000.00-\$14,999.99	\$35.00 per week
\$15,000.00-\$19,999.99	\$40.00 per week
\$20,000.00-\$24,999.99	\$45.00 per week
\$25,000.00 and greater	\$50.00 per week

6. Withholding Limits

The Consumer Credit Protection Act (CCPA) sets limits on the amount of a person's disposable earnings that can be withheld to enforce a support order. If the obligor is entitled to: severance pay, accumulated sick pay, vacation pay, commission, bonuses, or other income payor paid lump sum payments in addition to periodic wages and is behind in court ordered child support, the income payor shall withhold the lesser amount of the arrears or the amount of the support that is required, multiplied by the number of weeks represented by the lump sum payment, up to CCPA limits below.¹⁵ The chart below details the maximum amount that can be withheld from an obligor's wages or lump sum earnings.¹⁶

Where the obligor supports a second family (i.e., a spouse or dependent child other than the spouse or child who is subject of the support order).	50% of the obligor's disposable earnings for that week.
Where the obligor is not supporting a second family.	60% of the obligor's disposable earnings for that week.
Where the obligor is supporting a second family AND owes arrears that are at least 12 weeks past due.	55% of the obligor's disposable earnings for that week.
Where the obligor is not supporting a second family AND owes arrears that are at least 12 weeks past due.	65% of the obligor's disposable earning for that week.

IWOs generated through the statewide child support system will prepopulate the applicable CCPA withholding percentage at 50% or 55%, depending on whether the obligor owes arrears constituting at least 12 weeks of past due child support.

6. Termination of Income Withholding

The statewide child support system will automatically generate a termination of IWO when:

¹⁴ IC 31-16-15-2.5(f)

¹⁵ IC 31-16-15-19

¹⁶ 15 U.S.C. § 1673(b); 42 U.S.C. § 666(b)(1)

- a. The duty to support a child has ended; and
- b. There are no child support arrearages.¹⁷

If the income payor has chosen to receive IWOs electronically, the termination will also be transmitted electronically and a copy of the termination IWO will print for the case file (unless the Title IV-D Prosecutor's office has chosen to have all IWOs printed centrally). The generated paper copy should not be mailed to the income payor unless a paper copy is requested to resolve a problem.

If the income payor does not receive e-IWOs, the termination IWO will print at the Title IV-D Prosecutor's office to mail or fax to the income payor, unless the office has chosen to have the documents printed centrally.

There may be instances when a Title IV-D Prosecutor may wish to manually issue a termination IWO, such as where the statewide child support system generates and issues IWOs for multiple employers and current support is satisfied by an existing IWO for one income payor, or in a UIFSA case where the initiating jurisdiction requests termination of an Indiana IWO. The reason for any manual termination of an IWO should be documented in the statewide child support system.

4. Stay of Withholding

When an Indiana court has ordered or modified child support, it is also generally required to enter an order for the immediate withholding of the obligor's income.¹⁸ However, at the court's discretion, the court may authorize or order a stay of immediate withholding upon either:

- a. A finding of good cause; or
- b. The submission to the court of a written agreement by the parties.

a. Good Cause

A court may find good cause to not order immediate income withholding. To support a court's finding of good cause, one of the parties must demonstrate and the court must find all of the following:

- i. A stay of implementation of the IWO is in the best interest of the child;¹⁹
- ii. The obligor has a history of substantially uninterrupted, full, and timely child support payments, other than payments made through an IWO or another mandatory process of previously ordered child support, during the previous 12 months;²⁰ and
- iii. An IWO would cause extraordinary hardship on the obligor.²¹

b. Written Agreement

¹⁷ IC 31-16-15-22(a)

¹⁸ IC 31-16-15-0.5

¹⁹ IC 31-16-15-0.5(c)(1)(A)

²⁰ IC 31-16-15-0.5(c)(1)(B)

²¹ IC 31-16-15-0.5(c)(1)(C); 42 U.S.C. § 666(b)(3)(A)

A court may stay the issuance of immediate withholding if the court approves a written agreement submitted by the parties that contains all of the following:²²

- i. A statement that an IWO is not implemented immediately but that an IWO will be implemented if the:
 1. Obligor becomes delinquent; or
 2. Obligor requests implementation of the IWO;
- ii. A detailed description of an alternative payment arrangement between the parties to ensure the timely payment of child support;
- iii. A provision that the obligor shall provide current information to the court concerning the following:
 1. The name, address, and telephone number of the obligor's place of employment.
 2. Any health coverage available to the obligor as a benefit of employment or maintained by the obligor, including information on the:
 - a. Name of the carrier;
 - b. Health insurance policy, certificate, or contact number; and
 - c. If applicable, names and birth dates of the persons for whose benefit the obligor maintains health coverage under health insurance policy, certificate, or contract.

When staying the implementation of an IWO based on written agreement between the parties, the court shall also specify the date on which the stay of implementation of the IWO terminates automatically.²³

c. Lifting of Stay by Court

A stay of income withholding shall be lifted by the court when:

- i. The obligor is in arrears in an amount equivalent to one (1) month of court ordered child support;²⁴ or
- ii. The obligor requests the implementation of the IWO.²⁵

A stay of income withholding may be lifted by the court at the request of the obligee.²⁶ If the obligee files a petition to lift the stay of implementation, a hearing shall be set no more than 20 days after the date the petition was filed and a notice of the hearing shall be sent to the obligor.²⁷

The court shall grant the petition to lift the stay of implementation of the IWO at the hearing if the obligor has failed to comply with the provisions of the support order unless the parties submit a written agreement that is approved by the court.²⁸

²² IC 31-16-15-0.5(c)(2); IC 31-16-15-0.5(d)

²³ IC 31-16-15-0.5(e)

²⁴ IC 31-9-2-36(a); IC 31-16-15-2

²⁵ IC 31-16-15-2

²⁶ IC 31-16-15-2; IC 31-16-15-5.5

²⁷ IC 31-16-15-5.5(b)

²⁸ IC 31-16-15-0.5(c)(2); IC 31-16-15-0.5(d)

If the court grants the petition to lift the stay of implementation of the IWO, the court shall implement the IWO and send the IWO to the obligor's income payor.²⁹

d. Lifting of Stay by Title IV-D Agency

The Title IV-D agency may lift the stay of implementation when:

- i. The obligor is delinquent;³⁰ or
- ii. The obligor requests the implementation of the IWO.³¹

If the obligor requests the implementation of the IWO, the NOW is not required.³²

If the Title IV-D agency lifts a court ordered stay and issues an IWO due to delinquency, the Title IV-D agency shall issue the NOW to the obligor.

FORMS AND TOOLS

1. [ISETS Income Withholding Complete Guide](#)
2. [e-IWO Acknowledgements and Checking for e-IWO Instructions](#)
3. Chapter 12 Enforcement Section 6 Administrative Hearings

FREQUENTLY ASKED QUESTIONS

1. Q. Can the Title IV-D Prosecutor or CSB modify the IWO form for a specific situation?
A. No. The IWO must be issued via the proscribed federal OMB-approved form for income withholding. There is a section for supplemental information in the form that may be modified and which contains information specific to the type of IWO generated through the statewide child support system. Income payors are instructed to reject non-conforming IWOs.
2. Q. Are annual support fees collected by IWO?
A. Yes, if the ASFE is due and not paid following the annual support fee notice sent by CSB, CSB will issue a separate IWO to the obligor's most recent employer with no end date entered in the statewide child support system³³.

RELATED INFORMATION

N/A

²⁹ IC 31-16-15-5.5(f)

³⁰ IC 31-9-2-36(a); IC 31-16-15-2.5(b)

³¹ IC 31-16-15-2.5(b)

³² IC 31-16-15-2.5(c)

³³ IC 33-37-5-6(f)