

Rules of
Department of Social Services
Division 30—Child Support Enforcement
Chapter 4—Income Withholding

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**Title 13—DEPARTMENT OF
SOCIAL SERVICES**

**Division 30—Child Support
Enforcement**

Chapter 4—Income Withholding

13 CSR 30-4.010 Interstate Income Withholding Procedure

PURPOSE: This rule enhances the enforcement of support obligations by providing a quick and effective procedure for withholding income derived in Missouri to enforce support orders of other jurisdictions and by requiring that income withholding, to enforce support orders obtained in Missouri, be sought in other jurisdictions. This rule shall be construed liberally to effect that purpose.

(1) General Provisions.

(A) Definitions. As used in this rule—

1. Agency means the Division of Child Support Enforcement of this state and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this rule, including the issuance and enforcement of support orders;

2. Child means any child, whether above or below the age of majority, with respect to whom a support order exists;

3. Court means the circuit court of this state and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this rule, including the issuance and enforcement of support orders;

4. Income derived in Missouri means any income, the payor of which is subject to the jurisdiction of Missouri for the purpose of imposing and enforcing income withholding under Chapters 452 and 454, RSMo;

5. Income means any form of payment to an individual, regardless of source, including, but not limited to, wages, salary, commissions, compensation as an independent contractor, Workers' Compensation, disability, annuity and retirement benefits, tax refunds, unemployment insurance benefits and any other payments made by any person, private entity, federal or state government, any unit of local government, school district or any entity created by Public Act; provided, however, that income excludes—

A. Any amounts required by law to be withheld, other than creditor claims, including, but not limited to, federal, state and local taxes, Social Security and other retirement and disability contributions;

B. Union dues;

C. Any amounts exempted by federal, state or local law; and

D. Public assistance payments;

6. Jurisdiction means any state or political subdivision, territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico and any other state, foreign country or territory in which this or a substantially similar reciprocal law, regulation or order has been enacted; foreign support decrees will be recognized under this rule only if withholding or a similar remedy would be required under the facts of the case in that country and reasonable notice and opportunity to be heard is given to all affected persons at the time of the support decree;

7. Obligee means any person or entity which is entitled to receive support under an order of support and shall include the Division of Family Services and agencies of other jurisdictions to which a person has assigned his/her right to support;

8. Obligor means any person required to make payments under the terms of a support order for a child, spouse or former spouse;

9. Payor means any payor of income; and

10. Support order means any order, decree or judgment for the support or for the payment of arrearages on such support, of a child, spouse or former spouse issued by a court or agency of Missouri or another jurisdiction, whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, juvenile, foster care or otherwise.

(B) Remedies Additional to Those Now Existing. The remedy provided is in addition to, and not in substitution for, any other remedy otherwise available to enforce a support order of another jurisdiction. Relief under this rule shall not be denied, delayed or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy or because of the pendency of any other judicial or administrative action undertaken in Missouri or any other jurisdiction to establish, modify or enforce a support order.

(2) Initiation of Income Withholding and Cooperation with Other Jurisdictions. On behalf of any person for whom the Division of Child Support Enforcement is already providing services or upon application of a Missouri resident who is an obligee or obligor of a support order issued by this state or an agency to whom the obligee has assigned support rights, the Division of Child Support

Enforcement shall request the agency or court of another jurisdiction, in which the obligor of a support order derives income, to enter the order for the purpose of obtaining income withholding against this income. The Division of Child Support Enforcement shall compile and transmit to the agency or court of the other jurisdiction all documentation required to enter a support order for this purpose. The Division of Child Support Enforcement shall transmit the withholding request and documentation within twenty (20) calendar days of determining that wage withholding is required and receiving any information necessary to carry out the withholding if appropriate. The Division of Child Support Enforcement also shall immediately transmit to the agency or court of the other jurisdiction a certified copy of any subsequent modifications of the support order. If the Division of Child Support Enforcement receives notice that the obligor is contesting income withholding in another jurisdiction, it shall immediately notify the individual obligee of the date, time and place of the hearing and of the obligee's right to attend.

(3) Responsibilities for Entering a Support Order of Another Jurisdiction for Purposes of Income Withholding.

(A) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (3)(B) from an agency or court of the jurisdiction or an obligee, the Division of Child Support Enforcement shall enter an administrative order in accordance with section 454.476, RSMo. The administrative order shall constitute entry of the support order under this rule.

(B) The following documentation is required for the entry of a support order of another jurisdiction:

1. A certified copy of the court order together with all modifications;

2. A sworn statement by the obligee or a certified statement from the court attesting to or certifying the amount of arrearages under the court order;

3. A statement of the name, last known address and, if known, the Social Security number of the obligor;

4. A statement of the name and address of the obligor's employer or other payor, if known;

5. A copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;

6. The name and address of the agency, court or person to whom support payments



collected by income withholding shall be transmitted; and

7. The name and address of the obligee to whom the support obligation is owed.

(C) If the documentation received by the Division of Child Support Enforcement under subsection (3)(A) does not conform to the requirements of subsection (3)(B), the Division of Child Support Enforcement shall remedy any defect which it can without the assistance of the requesting agency or person. If the Division of Child Support Enforcement is unable to make these corrections, the requesting agency or person shall immediately be notified of the necessary additions or corrections. In neither case shall the documentation be returned. The Division of Child Support Enforcement shall accept the documentation required by subsections (3)(A) and (B) even if it is not in the usual form required by state or local rules, so long as the substantive requirements of subsections (3)(A) and (B) are met.

(D) A support order entered under section (3) shall be enforceable by income withholding against income derived in this state in the manner and with the effect as set forth in sections (4)—(11) of this rule; Chapter 454, RSMo; and for the purpose of interception of Missouri State Income Tax refunds pursuant to section 143.781, RSMo. Neither the entry of the order by the agency nor the filing of that order in circuit court pursuant to section 454.490, RSMo shall confer jurisdiction on the Division of Child Support Enforcement or circuit courts of this state for the purpose of determining or ruling upon any disputes concerning custody of children, visitation, modification of any support order or for any purpose other than income withholding. Where a state tax refund is involved, the hearing provisions of Chapter 143, RSMo shall apply in lieu of those established in this rule.

(4) Notice.

(A) Upon a support order being entered pursuant to section (3), the Division of Child Support Enforcement shall serve upon the obligor, in accordance with section 454.476.2., RSMo, notice of an income withholding. Where appropriate, that notice shall contain the same information required in section 454.470, RSMo. The notice also shall advise the obligor that the income withholding was requested on the basis of a support order of another jurisdiction. Notice will be deemed to have been provided to the obligor upon his/her receipt of the notice required under this subsection. The obligor will be deemed to have received the notice on the

date it is delivered by certified mail, whether or not the obligor accepts the delivery.

(B) The obligor shall have fourteen (14) days from receipt of the notice to request a hearing to contest the income withholding. If the obligor is granted a hearing to contest the proposed income withholding, the Division of Child Support Enforcement shall immediately notify the requesting agency, court or obligee of the date, time and place of the hearing and of the obligee's right to attend the hearing. The withholding order will be implemented during the pendency of the hearing unless the obligor posts a bond or other security satisfactory to the director to insure payment of support.

(5) Income Withholding Hearing.

(A) At any hearing contesting proposed income withholding based on a support order entered under section (3), the entered order, accompanying sworn or certified statement and a certified copy of an income withholding order, if any still in effect, shall constitute *prima facie* proof, without further proof or foundation, that the support order is valid, that the amounts of current support and arrearages are as stated and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

(B) Once a *prima facie* case has been established, the obligor may assert only Mistake of Fact as a defense. Mistake of Fact shall mean an error in the amount of arrearages or an error as to the identity of the obligor. The obligor shall have the burden of proof as to these issues. The obligor may not obtain relief from the withholding by paying the overdue support.

(C) If the obligor presents evidence which constitutes a full or partial defense, the Division of Child Support Enforcement may continue the case to permit further evidence relative to the defense to be adduced by either party. The Division of Child Support Enforcement shall determine those matters still in dispute as soon as possible and, if appropriate, shall modify the withholding order to conform to that resolution.

(D) In addition to other procedural devices available to a party, any party to the proceeding or a guardian *ad litem* or other representative of the child may adduce testimony of witnesses in another state or jurisdiction, including the parties and any of the children, by deposition, by written discovery, by photographic discovery such as videotaped depositions or by personal appearance before the Division of Child Support Enforcement by telephone or photographic means. The Division of Child Support Enforcement on its own

motion may direct that the testimony of a person be taken in another state or jurisdiction and may prescribe the manner in which and the terms upon which the testimony shall be taken.

(E) The Division of Child Support Enforcement may request the appropriate court or agency of another state or jurisdiction to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that jurisdiction and to forward to the Division of Child Support Enforcement certified copies of the evidence adduced in compliance with the request.

(F) Upon request of a court or agency of another state or jurisdiction, the Division of Child Support Enforcement may order a person in this state to appear at a hearing or deposition before the Division of Child Support Enforcement to adduce evidence or to produce or give evidence under other procedures available in this state. A certified copy of the evidence adduced, such as a transcript or video tape, shall be forwarded by the Division of Child Support Enforcement to the requesting court or agency.

(G) A person within this state may voluntarily testify by statement or affidavit in this state for use in a proceeding to obtain income withholding outside this state.

(6) Income Withholding Order. Upon entry of the support order under section (3) of this rule, a wage withholding order shall be issued to the payor of obligor by the agency pursuant to section 454.476, RSMo (House Bill 1479). The Division of Child Support Enforcement shall notify the requesting agency or person of the date upon which withholding will begin.

(7) Notice to Payor and Other Provisions. The provisions of section 454.505, RSMo apply to income withholding based on a support order of another jurisdiction entered under this rule.

(8) Distribution of Collected Support Payments.

(A) The income withholding order shall direct payment to be made to the clerk of the circuit court of the county where the withholding order is filed pursuant to sections 454.490 and 454.505, RSMo. The circuit court clerk shall promptly transmit payments received pursuant to an income withholding order based on a support order of another jurisdiction entered under this rule to the agency or person designated in paragraph (3)(B)6. of this rule.

(B) A support order entered pursuant to section (3) does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state or jurisdiction. Amounts collected by any withholding of income shall be credited against the amounts accruing or accrued for any period under any support orders issued either by this state or by a sister state or jurisdiction.

(9) Changes.

(A) Changes in Original Order. The Division of Child Support Enforcement, upon receiving a certified copy of any amendment or modification of a support order entered pursuant to section (3) of this rule, shall enter the amended or modified support order pursuant to the provisions of section (3). The Division of Child Support Enforcement shall amend or modify the income withholding order to conform to the amended or modified support order.

(B) Changes in Jurisdiction. If the Division of Child Support Enforcement determines that the obligor has obtained employment in another state or jurisdiction or has a new or additional source of income in another state or jurisdiction, it shall notify the agency which requested the income withholding of the changes within five (5) working days of receiving that information and shall forward to that agency all information it has or can obtain with respect to the obligor's new employer, address or other source of income. The Division of Child Support Enforcement shall include with the notice a certified copy of the income withholding order in effect in this state.

(C) The obligor shall notify the Division of Child Support Enforcement of any change in his/her address or employment within ten (10) days of the change.

(10) Voluntary Income Withholding. Any obligor may obtain voluntary income withholding by filing with the Division of Child Support Enforcement a request for the withholding and a certified copy of the support order. The Division of Child Support Enforcement shall enter the support order and file it in circuit court pursuant to 454.490, RSMo. Upon the filing, employers or other payors shall honor any voluntary assignment of income executed by the obligor pursuant to section 452.350, RSMo.

(11) Choice of Law.

(A) The local law of this state shall apply in all actions and proceedings concerning the issuance, enforcement and duration of

income withholding orders issued by a court or agency of this state, which is based upon a support order of another jurisdiction entered pursuant to section (3), except as provided in subsections (11)(B) and (C).

(B) The local law of the jurisdiction which issued the support order shall govern the following:

1. The interpretation of the support order entered under section (3), including amount, form of payment and the duration of support;

2. The amount of support arrearages necessary to require the issuance of an income withholding order; and

3. The definition of what costs, in addition to the periodic support obligation, are included as arrearages which are enforceable by income withholding, including, but not limited to, interest, attorney's fees, court costs and costs of paternity testing.

(C) The Division of Child Support Enforcement and the circuit court shall apply either the applicable statute of limitations of this state or of the jurisdiction which issued the support order entered under this rule, whichever is longer.

AUTHORITY: section 454.400, RSMo Supp. 1990. Emergency rule filed Sept. 17, 1986, effective Sept. 27, 1986, expired Jan. 25, 1987. Original rule filed Oct. 16, 1986, effective Jan. 30, 1987. Emergency rule filed Feb. 16, 1993, effective Feb. 26, 1993, expired June 25, 1993. Emergency amendment filed April 13, 1993, effective June 22, 1993, expired Oct. 19, 1993. Amended: Filed Feb. 16, 1993, effective Aug. 9, 1993.*

**Original authority 454.400, RSMo 1982, amended 1985, 1986, 1990.*

13 CSR 30-4.020 Immediate Income Withholding Exceptions for Administrative Orders

PURPOSE: This rule establishes and sets forth the procedures for allowing exceptions from immediate income withholding when administrative orders are entered or modified by the Division of Child Support Enforcement pursuant to sections 454.460—454.520, RSMo.

(1) Definitions. As used in this rule—

(A) Absent parent means a natural or adoptive parent who does not reside with his/her dependent child(ren) and against whom the division is seeking to establish and enforce a support order;

(B) Administrative order means a child support order established by administrative

process pursuant to sections 454.460—454.520, RSMo.

(C) Aid to families with dependent children (AFDC) means a financial assistance program for families with children, also known as Title IV-A of the Social Security Act;

(D) Arrearage means past-due child/spousal support;

(E) Assignee means a state agency to which a child's custodian relinquishes the right to receive child support, either by agreement or by operation of law;

(F) Bond means a cashier's check or money order payable to the Division of Child Support Enforcement to ensure the payment of child support;

(G) Current support means the periodic child support obligation, imposed by administrative order;

(H) Director means the director of the Missouri Division of Child Support Enforcement or a designee;

(I) Division means the Missouri Division of Child Support Enforcement;

(J) Good cause means the circumstances under which the director will not impose an immediate order to withhold income upon entry of an administrative order for child support;

(K) Income withholding means the withholding of any form of payment to an individual regardless of source, including, but not limited to, wages, salary, commissions, compensation as an independent contractor, Workers' Compensation, disability, annuity and retirement benefits and any other payments made by any person, private entity, federal or state government, any unit of local government, school district or any entity created by public law or ordinance;

(L) Notice and finding of financial responsibility means a written allegation as to the absent parent's responsibility to support his/her child(ren), which precedes the establishment of an administrative order for support pursuant to sections 454.460—454.520, RSMo; and

(M) Written agreement means an agreement in writing between the absent parent and the custodial parent or caretaker, and in cases in which there is an assignment of support rights, an agreement between the absent parent and the assignee, which provides for an alternative arrangement for payment of support to the circuit clerk and is signed by each party to the agreement.

(2) Immediate Income Withholding When Initial Order is Entered.

(A) The director shall issue an immediate withholding order to the absent parent's

employer or other payor on the effective date of the administrative support order issued pursuant to sections 454.460—454.520, RSMo, unless the director determines that good cause exists not to do so or unless there is a written agreement as defined in this rule.

(B) The director shall determine that good cause exists for not effecting immediate income withholding if—

1. The absent parent posts a bond with the division equal to two (2) months' current support at the time the support order is entered;

2. The absent parent agrees to notify the division of his/her current employer's name and address as long as the support order is in effect; and

3. The absent parent provides proof that s/he has obtained or applied for medical insurance for the child(ren) named in the notice and finding, unless the custodial parent or caretaker has medical insurance for the absent parent's child(ren) other than Medicaid.

(C) The division shall hold the bond in trust and, so long as no arrearage is owed, shall refund any remaining balance to the absent parent within sixty (60) days of—

1. The date the division is notified of the child(ren)'s emancipation or the termination of the support order; or

2. The date the child(ren)'s custodian stops receiving child support enforcement services from the division.

(D) If the absent parent misses a scheduled child support payment and an arrearage equal to or greater than one (1) month's current support amount has accrued, the director will—

1. Apply the bond to the absent parent's child support arrearage and pay to the custodian, or the current assignee of support rights, the amount of the accrued arrearage, up to the remaining bond amount; and

2. Issue an income withholding order to the absent parent's employer or other payor, if known.

(3) Immediate Income Withholding When Administrative Orders Are Modified.

(A) The director shall issue an immediate income withholding order to the absent parent's employer or other payor on the effective date of any administrative order modified under section 454.500, RSMo, unless the director determines that good cause exists not to do so or unless there is a written agreement as defined in this rule.

(B) The director shall determine that good cause exists for not effecting immediate income withholding if the absent parent provides to the division—

1. A written request that immediate income withholding not be implemented;

2. Court records showing that an arrearage did not exist on the administrative order prior to its modification;

3. Court records showing that all payments on the administrative order were made on or before the due date;

4. Proof that s/he has obtained or applied for medical insurance for the child(ren) named in the order, unless the custodial parent or caretaker has medical insurance other than Medicaid for the absent parent's child(ren); and

5. A written agreement to notify the division of the name and address of his/her current employer as long as the support order is in effect.

(C) Notwithstanding the fact that the director has determined that good cause exists under subsection (3)(B) of this rule, income withholding shall be effected if any one (1) of the following occurs:

1. The absent parent misses any scheduled payments on the child support order and an arrearage exists equal to at least one (1) month's current support;

2. The absent parent requests that income withholding begin;

3. The custodial parent or caretaker requests that income withholding begin and at least one (1) payment has been received after its due date;

4. The absent parent does not provide the division with his/her new employer's name and address; or

5. The absent parent terminates medical insurance coverage for the child(ren) named in a support order that includes medical support, unless the termination is done with the consent of the custodial parent, caretaker or assignee.

(4) Written Agreement.

(A) As assignee of support rights, the director shall not enter into a written agreement not to impose immediate income withholding if the custodian of the absent parent's child(ren) is receiving AFDC on the date the notice and finding of financial responsibility is issued.

(B) If the custodian is not receiving AFDC when the notice and finding of financial responsibility is issued, the director shall notify the absent parent and custodian that immediate income withholding will be initiated on the effective date of the administrative order unless—

1. The custodial parent or caretaker and the absent parent each sign and within twenty (20) calendar days return to the division a written agreement allowing the absent parent

to make child support payments directly to the circuit court;

2. The absent parent agrees to notify the division of his/her current employer's name and address as long as the support order is in effect; and

3. The absent parent provides proof that s/he has obtained or applied for medical insurance for the child(ren) named in the notice and finding, unless the custodian has medical insurance for the absent parent's child(ren) other than Medicaid.

(C) The written agreement shall be invalid and the director shall initiate an income withholding order to the absent parent's employer or other payor without prior notice to either party if—

1. The absent parent misses any scheduled payments on the child support order and an arrearage exists equal to at least one (1) month's current support;

2. The absent parent requests that income withholding begin;

3. The custodial parent or caretaker requests that income withholding begin and the circuit court receives at least one (1) payment after its due date;

4. The absent parent does not provide the division with his/her new employer's name and address; or

5. The absent parent terminates medical insurance coverage for the child(ren) named in a support order that includes medical support, unless it is terminated with the consent of the custodial parent, caretaker or assignee.

(D) If the legal custody of the child(ren) has been placed with the Division of Family Services, a written agreement not to impose immediate income withholding may be obtained between the absent parent and the Division of Family Services caseworker assigned to the child(ren)'s alternative care case. The agreement shall be in accordance with the terms and requirements of subsections (4)(B) and (C) of this rule.

(E) If the physical custody of the child(ren) has been placed with the Department of Mental Health, a written agreement not to impose immediate income withholding may be obtained between the absent parent and the reimbursement administrator of the Department of Mental Health or his/her designee. The agreement shall be in accordance with the terms and requirements of subsections (4)(B) and (C) of this rule, except that the absent parent will not be required to provide proof that s/he has obtained or applied for medical insurance for the child(ren) named in the notice and finding.

AUTHORITY: section 454.400, RSMo Supp. 1990. Original rule filed Dec. 24, 1990, effective June 10, 1991.*

**Original authority 454.400, RSMo 1982, amended 1985, 1986, 1990.*