

DAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

Division of Welfare

16.03.03 – Child Support Services

Who does this rule apply to?

For those paying and receiving child support.

What is the purpose of this rule?

These rules provide the requirements for the administration of the Department's child support program. The goal of child support services is to ensure that both parents provide the financial support necessary to provide for their children. This program requires cooperation between families, employers, and the community.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Public Assistance and Welfare -

Public Assistance Law:

- [Section 56-203A, Idaho Code](#) – Authority of Department to Enforce Child Support – Support Enforcement Services

Department of Health and Welfare:

- [Section 56-1004, Idaho Code](#) – Director – Additional Powers and Duties

Domestic Relations -

Mandatory Income Withholding for Child Support:

- [Section 32-1214G, Idaho Code](#) – Authority of the Department

Where can I find information on Administrative Appeals?

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."

How do I request public records?

Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, "Use and Disclosure of Department Records."

Who do I contact for more information on this rule?

Idaho Department of Health and Welfare
Division of Welfare – Child Support Services
450 West State Street
Boise, ID 83702

P.O. Box 83720

Boise, ID 83720-0036

Phone: (208) 334-5815 or 1-800-356-9868

Fax: (208) 334-5817

Email: SRProgramRules@dhw.idaho.gov

Webpage: <https://healthandwelfare.idaho.gov/services-programs/children-families/about-child-support>

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16.03.03 – CHILD SUPPORT SERVICES

000. LEGAL AUTHORITY.

The Department of Health and Welfare is authorized to promulgate these rules under Sections 7-1206, 32-1207, 32-1209, 32-1214G, 32-1217, 56-203A, and 56-1004, Idaho Code. (7-1-21)T

001. TITLE, SCOPE, AND GOAL.

01. **Title.** These rules are titled IDAPA 16.03.03, “Child Support Services.” (7-1-21)T

02. **Scope.** These rules provide the requirements for the administration of the Department’s child support program. (7-1-21)T

03. **Goal.** The goal of child support services is to ensure that both parents provide the financial support necessary to provide for their children. This program requires cooperation between families, employers, and the community. (7-1-21)T

002. -- 049. (RESERVED)

050. DISTRIBUTION OF SUPPORT COLLECTED IN TITLE IV-E FOSTER CARE MAINTENANCE CASES.

01. **Payment of Support Obligation.** The amount collected as current support shall first be retained by the State to reimburse itself for the foster care assistance payment for that month. Any amount collected in excess of the current month’s foster care assistance payment, but less than the monthly support obligation, shall be paid to the state agency responsible for the child’s placement and care. Any amount collected in excess of the monthly support obligation shall be retained by the State to reimburse any previous foster care assistance payments. The State is limited to reimbursement for past foster care assistance by the amount of the total support obligation owed. Any excess collected after the State has been reimbursed for past foster care assistance payments shall be paid to the state agency responsible for the child’s placement and care. Collections shall be applied to future payments only after all current support and arrears have been satisfied. (7-1-21)T

02. **Termination of Foster Care Payments.** When a state stops providing foster care assistance under Title IV-E, the assignment of support rights ends except as to unpaid support which accrued prior to or during the assignment. (7-1-21)T

051. – 074. (RESERVED)

075. FEES.

01. **Application Fee.** At the time of application for child support services, a written application must be completed and a fee of twenty-five dollars (\$25) must be paid. The fee must be paid in advance of any services to be provided and is not refundable. (7-1-21)T

02. **Income Tax Offset Fees.** A fee of twenty-five dollars (\$25) will be deducted each time child support is collected as a result of an income tax offset. (7-1-21)T

03. **Internal Revenue Service (IRS) Referral Fees.** A fee of one hundred twenty-two dollars and fifty cents (\$122.50) shall be charged for a referral to the IRS for full collection of the child support obligation. (7-1-21)T

04. **Locate Fees.** Child Support Services may charge an applicant/recipient a fee of ten dollars (\$10) for referral to FPLS for location of a non-custodial parent when no other child support services are being provided. Child Support Services may also charge a fee of four dollars (\$4) for referral to the FPLS for a social security number search. Child Support Services may charge a fee of seventy cents (\$.70) for referral to FPLS for location of a non-custodial parent. (7-1-21)T

05. **Federally Mandated Annual Service Fees.** Child Support Services must charge an annual fee of thirty-five dollars (\$35) for each support enforcement case in which it has collected and disbursed at least five hundred fifty dollars (\$550) of support in the federal fiscal year. The fee will be billed to the parent ordered to pay support, but will not be assessed on any case in which an individual has ever received benefits under the Temporary Assistance for Needy Families program. (7-1-21)T

076. – 099. (RESERVED)

100. LEGAL COSTS.

An applicant/recipient will be notified at the time of the application that legal costs incurred by Child Support Services will be deducted from any child support collected to reimburse the State. The applicant/recipient will be notified as to the legal costs being incurred. No more than twenty percent (20%) of any collection will be deducted for reimbursement of these costs. Child Support Services will attempt to obtain an order against the non-custodial parent in favor of the applicant/recipient for reimbursement of the legal costs incurred by Child Support Services.

(7-1-21)T

101. -- 199. (RESERVED)

200. SECURING AND ENFORCING MEDICAL SUPPORT.

Medical support enforcement services must be provided in any case for which an assignment of medical support is in effect, including:

(7-1-21)T

01. Petition. Petitioning the court to include health insurance that is available to either parent at reasonable cost in new or modified court orders for support. Health insurance is considered reasonable in cost if it is available through employment or other group health benefit plan.

(7-1-21)T

02. Enforcement. Taking any necessary action to ensure that one (1) parent secures and maintains medical insurance required by the support order.

(7-1-21)T

201. ADMINISTRATIVE REVIEW FOR ENFORCEMENT OF MEDICAL SUPPORT.

01. Request. An obligor may request an administrative review within twenty (20) days after a notice of intent to enroll one (1) or more children in a health benefit plan is mailed by the Department.

(7-1-21)T

02. Scope of Administrative Review. The Department will cancel a notice of intent to enroll or a National Medical Support Notice (NMSN) if:

(7-1-21)T

a. The parent does not owe medical support.

(7-1-21)T

b. The parent is no longer obligated to provide medical support.

(7-1-21)T

c. Medical support, excluding Medicaid, is already being provided by either parent.

(7-1-21)T

202. -- 299. (RESERVED)

300. REVIEW AND MODIFICATION OF SUPPORT ORDERS.

01. Notice. Each parent subject to a child support order in effect in the State that is being enforced by Child Support Services must be notified of the right of the parent to request a review of the order by Child Support Services every thirty-six (36) months. Reviews are not to be done more frequently unless there has been a substantial and material change in circumstances.

(7-1-21)T

02. Review. A support order will be reviewed for possible modification:

(7-1-21)T

a. If requested by either parent;

(7-1-21)T

b. If requested by any state, tribal, or foreign child support services agency; or

(7-1-21)T

c. Automatically, at least every thirty-six (36) months, in any case where the custodial parent or other custodian of the child or children is receiving benefits under Title IV-A of the Social Security Act, either in Idaho or elsewhere.

(7-1-21)T

03. After the Review. Each parent will be notified of the proposed adjustment or of the determination that there should be no change in the amount of child support.

(7-1-21)T

04. Adjustment. A modification of a support order will only be sought if the review conducted under Subsection 300.02 of this rule results in an obligation under the Child Support Guidelines which differs from the existing order by at least fifteen percent (15%), but not less than fifty dollars (\$50) per month. The following criteria will be applied by Child Support Services to determine whether there has been a substantial and material change of circumstances: (7-1-21)T

a. Whether there has been an increase or decrease in the income, as the term is defined in the Child Support Guidelines, of either parent or other person legally obligated for the support of a child; (7-1-21)T

b. Whether there has been a substantial increase or decrease in the assets of either parent or other person legally obligated for the support of a child; (7-1-21)T

c. Whether there has been a substantial change in the needs of the child; (7-1-21)T

d. Whether there has been a change in the custody or visitation rights of the non-custodial parent; and (7-1-21)T

e. Whether other factors exist indicating a substantial and material change in circumstances since the entry or modification of the support order. (7-1-21)T

301. CONSUMER REPORTING AGENCIES.

01. Consumer Reporting Agency. Any person who for monetary fees, dues or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. (7-1-21)T

02. Reports. Reports are made to consumer reporting agencies of any non-custodial parent who owes overdue support exceeding two thousand dollars (\$2,000) and is at least three (3) months in arrears after the court order is finalized. Notice will be provided to the non-custodial parent prior to the report being made available to the agencies and will inform the non-custodial parent of the methods available for contesting the accuracy of the information. (7-1-21)T

302. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definitions. The following definitions apply for this section of rules: (7-1-21)T

a. “Obligor” means an individual who is ordered to pay child support under an order issued by a court or authorized administrative authority. (7-1-21)T

b. “Obligee” means an individual who is ordered to receive child support under an order issued by a court or authorized administrative authority. (7-1-21)T

c. “Motor Vehicle License” means a license required to operate any type of motor vehicle. (7-1-21)T

d. “Occupational or Professional License” means a license issued to allow a person to practice or engage in any business, occupation, or profession. (7-1-21)T

e. “Recreational License” means a license, certificate, or permit authorizing an individual to engage in any recreational activity including, but not limited to, hunting, fishing, and trapping. (7-1-21)T

02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. (7-1-21)T

03. Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. The license suspension will be denied or stayed if the obligor proves one (1) of the following conditions exist: (7-1-21)T

- a.** The obligor has been declared physically disabled by Social Security, workman's compensation, or another competent authority that works with disabled individuals, and that the disability has directly resulted in the current inability to pay the child support obligation; (7-1-21)T
- b.** The obligor is experiencing the effects of an extended illness or accident that has directly resulted in the current inability to pay the child support obligation; (7-1-21)T
- c.** The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; (7-1-21)T
- d.** The obligor is incarcerated in any county, state, or federal correctional facility, and proves that they have no assets. (7-1-21)T
- e.** The obligor is receiving Temporary Assistance for Families in Idaho (TAFI) or Supplemental Security Income benefits; (7-1-21)T
- f.** The obligor has court-ordered physical custody of all of the children listed in the order or orders for support; (7-1-21)T
- g.** Child support is being collected directly from the obligor's income through an income withholding order issued by the Department to the obligor's employer or other income source. (7-1-21)T
- 04. Not Good Cause in Motor Vehicle and Occupational License Suspension Proceedings.** Any factor not defined as good cause in Subsection 302.03 of this rule is not good cause for a denial or stay of a license suspension, including but not limited to the following: (7-1-21)T
- a.** The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; (7-1-21)T
- b.** The obligor claims to be disabled but has not applied for disability or other benefits, or has been refused benefits; (7-1-21)T
- c.** The obligor asserts that the child support obligation is too high; (7-1-21)T
- d.** The obligor has been denied full visitation with the child or children; or (7-1-21)T
- e.** The obligor alleges the obligee misuses the child support. (7-1-21)T
- 05. Good Cause in Recreational License Suspension Proceedings.** The license suspension will only be stayed if the obligor proves one (1) of the following conditions exist: (7-1-21)T
- a.** The obligor is receiving TAFI or Supplemental Security Income benefits; or (7-1-21)T
- b.** The obligor has court-ordered physical custody of all of the children listed in the order or orders for support. (7-1-21)T
- 303. -- 999. (RESERVED)**

When remitting payment provide the paydate/date of withholding and the case identifier _____.
If remitting by EFT/EDI, use this FIPS code: *; _____; Bank routing code: * _____;
Bank account number: * _____.

Make it payable to: **Payee and case identifier**

Send check to: **Payee's Address**

Authorized by _____

Print Name _____

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

____ **If checked you are required to provide a copy of this form to your employee.**

1. **Priority:** Withholding under this Order/Notice has priority over any other legal process under State law against the same income. Federal tax levies in effect before receipt of this order have priority. If there are Federal tax levies in effect please contact the requesting agency listed below.

2. **Combining Payments:** You can combine withheld amounts from more than one employee/obligor's income in a single payment to each agency requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.

3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the employee is paid and controls the income, i.e. the date the income check or cash is given to the employee, or the date in which the income is deposited directly in his/her account.

4. **Employee/Obligor with Multiple Support Withholdings:** If you receive more than one Order/Notice against this employee/obligor and you are unable to honor them all in full because together they exceed the withholding limit of the State of the employee's principal place of employment (see #9 below), you must allocate the withholding based on the law of the State of the employee's principal place of employment. If you are unsure of that State's allocation law, you must honor all Orders/Notices' current support withholdings before you withhold for any arrearages, to the greatest extent possible under the withholding limit. You should immediately contact the last agency that sent you an Order/Notice to find the allocation law of the state of the employee's principal place of employment.

5. **Termination Notification:** You must promptly notify the payee when the employee/obligor is no longer working for you. Please provide the information requested and return a copy of this order/notice to the agency identified below.

EMPLOYEE'S/OBLIGOR'S NAME: _____
EMPLOYEE'S CASE IDENTIFIER: _____ **DATE OF SEPARATION:** _____
LAST KNOWN HOME ADDRESS _____
NEW EMPLOYER'S ADDRESS _____

6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the person or authority below.

7. **Liability:** If you fail to withhold income as the Order/Notice directs, you are liable for both the accumulated amount you should have withheld from the employee/obligor's income and any other penalties set by State law.

8. **Anti-discrimination:** You are subject to a fine determined under State law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

9. **Withholding Limits:** You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b)); or 2) the amounts allowed by the State of the employee's/obligor's principal place of employment. The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: State, Federal, local taxes; Social Security taxes; and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by: 1) 10% if the employee does not support a second family; and/or 2) 5% if arrears are more than 12 weeks old. (see boxes on front)

10. _____

Requesting Agency _____

If you or your employee/obligor have any questions, contact:

by telephone at _____ or
by FAX at _____ or
by Internet _____.

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