

AMERICAN PAYROLL ASSOCIATION

September 10, 2019

Sherri Grigsby
Manager, Employer Services
Office of Child Support Enforcement
330 C Street, SW – 5th Floor
Washington, DC 20024
Delivered by email to sherri.grigsby@acf.hhs.gov

Re: Request for advice regarding state withholding limits for child support

Dear Ms. Grigsby:

The American Payroll Association (APA) seeks the advice of the Office of Child Support Enforcement regarding the withholding limits of child support orders when the limit recognized by a state IV-D agency is less than that provided in the state's statute.

APA finds that at least six state IV-D agencies have made administrative decisions to cap the withholding limit at a level below what the state statutes allow. These states include but are not necessarily limited to Alaska, Illinois, Iowa, Missouri, Montana, and Nevada.

The laws of the six states mentioned say that withholding may not exceed the limits established by the federal Consumer Credit Protection Act (CCPA), which provides that withholding is limited to 50 percent of disposable income if the obligor is supporting a spouse or dependent child not named in the order and 60 percent of disposable income if the obligor is not supporting such a spouse or dependent child. These limits may be raised 5 percent (to 55 and 65 percent, respectively) if the obligor is more than 12 weeks in arrears. In practice, the states mentioned limit withholding to 40 or 50 percent of disposable income on the IWOs they issue.

The Uniform Interstate Family Support Act (UIFSA), adopted by states following the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. § 666), provides that employers are to follow the laws of the employee's principal place of employment regarding withholding limits and certain other provisions.

The question of the applicable withholding limit arises in two primary instances. In the first instance, an order may be issued by a IV-D agency in a state other than the employee's principal place of employment. Knowing that the law of the states listed allows for up to 65% of disposable income to be withheld, would a IV-D agency in one state expect an employer to follow the letter of the law or follow the administrative practice of the IV-D agency in the employee's principal place of employment?

In the second instance, an order may be issued by a private party or non-IV-D source. Again, APA members question whether their employers should follow the withholding limits codified into law or the withholding limits being used by their state's IV-D agencies.

Employers require a clear understanding of the withholding limits in order to comply with the IWOs and avoid inadvertently over-withholding, which might violate employees' consumer rights, or underwithholding, which might violate issuing states' rights to collect in full.

The American Payroll Association

APA is a nonprofit professional association representing more than 20,000 payroll professionals and the needs of their employers in the United States. The APA's primary mission is to educate its members and the payroll industry regarding best practices associated with paying America's workers while complying with applicable federal, state, and local laws. In addition, the APA's Government Relations Task Force works with the legislative and executive branches of government to find ways to help employers satisfy their legal obligations, while minimizing the administrative burden on government, employers, and individual workers.

APA welcomes the opportunity to discuss the above issues with you further. Please contact Corri Flores by email at corrinne.flores@adp.com or by phone at 909-971-5858; or Bill Dunn by email at bdunn@americanpayroll.org or by phone at 202-232-6889.

Sincerely,



Corrinne Flores
Chair, GRTF Subcommittee on
Child Support and Other Garnishments



William Dunn, CPP
Director of Government Relations