

405.467 Withholding order issued by cabinet -- Notice -- Hearing -- Combining orders and allocating amounts -- Duty and liability of employer -- Priority -- Interstate requests.

- (1) All support orders issued by the Cabinet for Health and Family Services, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.
- (2) In any case in which a support order was issued in the state and in which a parent is required to pay court-ordered or administratively determined child support, medical support, maintenance, and medical support insurance, and wage withholding is not in effect, and an arrearage accrues that is equal to the amount of support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any, without the need for a judicial or administrative hearing.
- (3) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the secretary shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer, without the need for a judicial or administrative hearing.
- (4) The cabinet shall advise the obligated parent that a wage withholding has commenced by sending a copy of the order to withhold at the same time that the order is sent to the employer. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the cabinet shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will continue.
- (5) The cabinet shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the cabinet to a single family or to multiple family units.
- (6) The cabinet shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages

plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).

- (7) If there is more than one (1) notice for child support withholding against a single absent parent, the cabinet shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the cabinet shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or family court of competent jurisdiction may set aside the cabinet's proportional allocations as to the custodial parent.
- (8) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the cabinet to the administratively ordered or judicially ordered medical support obligation.
- (9) The employer shall forward to the Cabinet for Health and Family Services that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.
- (10) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.
- (11) Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.
- (12) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.
- (13) The remedies provided for in this section shall also be available for applicable support orders issued in other states.
- (14) Interstate requests for withholding of earnings shall be processed by the cabinet.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 634, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 44, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 255, sec. 25, effective July 15, 1998; and ch. 426, sec. 585, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 355, effective July 15, 1996; and ch. 365, sec. 9, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 330, sec. 15, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 418, sec. 11, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 411, sec. 23, effective July 15, 1988. -- Created 1986 Ky. Acts ch. 487, sec. 16, effective July 15, 1986.