

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 113 ENFORCEMENT OF SUPPORT OBLIGATIONS FROM FEDERAL EMPLOYEES
INCLUDING MEMBERS OF THE ARMED SERVICES

8.50.113.1 ISSUING AGENCY: New Mexico Human Services Department - Child Support Enforcement Division.

[8.50.113.1 NMAC - Rp, 8.50.113.1 NMAC, 12/30/10]

8.50.113.2 SCOPE: To the general public. For use by the IV-D agency and recipients of IV-D services.

[8.50.113.2 NMAC - Rp, 8.50.113.2 NMAC, 12/30/10]

8.50.113.3 STATUTORY AUTHORITY: Public Assistance Act, NMSA 1978, Section 27-2-27. The human services department is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.).

[8.50.113. 3 NMAC - Rp, 8.50.113.3 NMAC, 12/30/10]

8.50.113.4 DURATION: Permanent.

[8.50.113.4 NMAC - Rp, 8.50.113.4 NMAC, 12/30/10]

8.50.113.5 EFFECTIVE DATE: December 30, 2010, unless a later date is cited at the end of a section.

[8.50.113.5 NMAC - Rp, 8.50.113.5 NMAC, 12/30/10]

8.50.113.6 OBJECTIVE: To provide regulations in accordance with federal and state laws and regulations.

[8.50.113.6 NMAC - Rp, 8.50.113.6 NMAC, 12/30/10]

8.50.113.7 DEFINITIONS: [RESERVED]

[See 8.50.100.7 NMAC]

8.50.113.8 AUTHORITY TO COLLECT SUPPORT FROM FEDERAL EMPLOYEES INCLUDING MEMBERS OF THE ARMED SERVICES: In accordance with federal regulations, the IV-D agency may secure and enforce support obligations from federal employees and members of the armed forces through income withholding, garnishment, and similar proceedings. Monetary amounts due from, or payable by, the United States or the District of Columbia for employment (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the armed forces of the United States, will be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to withholding in accordance with state law, and to any other legal process brought by the IV-D agency to enforce the legal obligation of the individual to provide child support, medical support, or spousal support. (42 USC 659).

A. Requirements applicable to private person: With respect to notices to withhold income or any other order or process to enforce support obligations against an individual, (if the order or process contains or is accompanied by sufficient data to permit prompt identification of the individual and the amounts involved), each governmental entity specified above will be subject to the same requirements as would apply if the entity were a private person.

B. Notice of process: The IV-D agency shall send or serve notice to withhold income for an individual's child support, medical support, or spousal support payment obligation to the duly designated federal agent.

C. Priority of claims: If a governmental entity specified above receives notice or is served with process, as provided in this section, concerning amounts owed by an individual to more than one person, then federal law shall control the determination of the priority of competing claims.

D. No requirement to vary pay cycles: A governmental entity that is affected by legal process served for the enforcement of an individual's child support or spousal support payment obligations is not required to vary its normal pay and disbursement cycle in order to comply with the legal process.

E. Federal payments subject to process: Monetary amounts paid or payable to an individual that are considered to be based upon remuneration for employment consist of:

(1) compensation payable for personal services of the individual, whether the compensation is denominated as wages, salary, commission, bonus, pay, allowances, or otherwise (including severance pay, sick pay, and incentive pay);

(2) periodic benefits or other payments:

(a) under the insurance system established by Chapter 7, Subchapter II of the United States Code - (federal old-age, survivors, and disability insurance benefits);

(b) under any other system or fund established by the United States that provides for the payment of pensions, retirement or retired pay, annuities, dependants' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual;

(c) as compensation for death under any federal program;

(d) under any federal program established to provide "black lung" benefits; or

(e) by the secretary of veterans affairs as compensation for a service-connected disability paid by the secretary to a former member of the armed forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation;

(3) worker's compensation benefits paid or payable under federal or state law; and

(4) benefits paid or payable under the railroad retirement system.

F. Federal payments not subject to process: Monetary amounts that are not considered to be based upon remuneration for employment consist of:

(1) payments by way of reimbursement or otherwise, to defray expenses incurred by the individual in carrying out duties associated with the employment of the individual; or

(2) payments made as allowances for members of the uniformed services as necessary for the efficient performance of duty.

[8.50.113.8 NMAC - Rp, 8.50.113.8 NMAC, 12/30/10]

8.50.113.9 ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES THROUGH INVOLUNTARY ALLOTMENTS:

A. In any case in which support payments are owed by a member of one of the uniformed services on active duty, such member may elect to satisfy the obligation by making allotments from his or her pay and allowances as payment of such support. In addition, in the event a member of the uniformed services who owes a duty of support accrues a delinquency equal to two (2) months' obligation or more, a notice of said delinquency may be issued by the IV-D agency to the designated official in the appropriate uniformed service. A copy of the notice of delinquency shall also be provided to the service member. The issuance of said notice will compel the creation of an allotment to satisfy the service member's obligation. The amount of the allotment will be the amount necessary to comply with the order which, if the order so provides, may include arrearages as well as amounts for current support; however, the amount of the allotment, together with any other amounts withheld for support from the wages of the member, as a percentage of his or her pay from the uniformed service, will not exceed the limits prescribed in sections 1673(b) and (c) of Title 15, Chapter 41, Subchapter II of the United States Code. An allotment under this subsection will be adjusted or discontinued upon notice from the authorized person. Payments made by allotment will be sent to the IV-D agency for disbursement.

B. Regulations: The secretary of defense has issued regulations applicable to allotments to be made under this section, designating the officials to whom notice of failure to make support payments, or notice to discontinue or adjust an allotment, should be given, prescribing the form and content of the notice and specifying any other rules necessary for such secretary to implement this section.

C. Availability of locator information: The IV-D agency uses the United State's secretary of defense's centralized personnel locator service that includes the address of each member of the armed forces. Except as provided below, the address for a member of the armed forces shown in the locator service will be the residential address of that member. The address for a member of the armed forces shown in the locator service will be the duty address of that member in the case of a member:

(1) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(2) with respect to whom the secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

[8.50.113.9 NMAC - Rp, 8 50.113.9 NMAC, 12/30/10]

8.50.113.10 PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH SUPPORT ORDERS:

A. Payments consistent with assignments of rights to states: In the case of a spouse or former spouse who assigns to the IV-D agency the rights of the spouse or former spouse to receive support, the secretary concerned may make the support payments to the IV-D agency in amounts consistent with that assignment of rights.

B. Arrearages owed by members of the uniformed services: In the case of a court order that is effectively served on the secretary of defense and that provides for payments from the disposable retired pay of a member to satisfy the amount of support set forth in the order, the authority to make payments from the disposable retired pay of a member to satisfy the amount of support set forth in a court order will apply to payment of any amount of support arrearages set forth in that order, as well as to amounts of support that currently become due.
[8.50.113.10 NMAC - Rp, 8.50.113.10 NMAC, 12/30/10]

History of 8.50.113 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD CSEB 501.1100, State and Local Requirements, 6-23-80.

NMAC History:

8 NMAC 5.CSE.000 through 8 NMAC 5.CSE.970, 12-30-94.

History of Repealed Material:

8 NMAC 5.CSE, Child Support Enforcement - Repealed effective 5/31/2001.

8.50.113 NMAC, Enforcement of Support Obligations From Federal Employees Including Members of the Armed Services, filed 5/14/2001 - Repealed effective 12/30/2010