

# MICHIGAN CHILD SUPPORT EMPLOYER JOB AID (MiCSEJA)

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## **PART A - General Information**

### **I. Background**

Employers play a critical role in helping Michigan's children receive their court-ordered child support and health care insurance. The following facts and statistics confirm the importance of child support in the lives of children:

- Approximately 85 percent of child support collected comes from employers;
- Approximately half of all children spend time in a single-parent home;
- Children supported by both parents are three times less likely to become teen parents and two times less likely to drop out of school, to engage in alcohol or substance abuse, or to become involved in the criminal justice system;
- Immediate savings for the taxpayer are realized as families become less reliant on public assistance (Temporary Assistance for Needy Families [TANF], food stamps and Medicaid); and
- The program is very cost-effective. In fiscal year 2007, for every dollar spent, the program collected \$6.38 for families.

Federal law mandates that each state create a centralized state disbursement unit to collect and distribute child support payments (*42 United States Code [USC], 654b*). Michigan law (*Michigan Compiled Law [MCL] 400.236*) was enacted to provide authority for the Michigan State Disbursement Unit (MiSDU) to fulfill this federal requirement. The MiSDU is part of the Office of Child Support (OCS) in the Department of Human Services (DHS).

The MiSDU provides the single physical location where all support payments<sup>1</sup> are received and disbursed in Michigan. The MiSDU processes over \$1.6 billion annually and distributes over 90 percent of the money received within 24 hours. The rest is held as required by law or to identify the recipient's address.

Customer service to employers is a priority for the MiSDU. A toll-free Employer Assistance Line (800) 817-0805 is available to help employers communicate with the MiSDU and take advantage of electronic payments. Electronic payment information and other information are also available at: [www.misdu.com](http://www.misdu.com) or in the child support section of the DHS Web site at: [www.michigan.gov/childsupport](http://www.michigan.gov/childsupport).

This job aid answers questions that employers are likely to ask about employer responsibilities under Michigan and federal law. The job aid will also answer questions about an employer's responsibility to enroll children in health insurance.

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<sup>1</sup> Some specific payments cannot be administered by the MiSDU. These special payments are specifically requested to be sent to the appropriate Friend of the Court (FOC) office for special handling and distribution. Special payments include, but are not limited to court fees, bench warrant, workers' compensation, Qualified Domestic Relations Order (QDRO) payments or Eligible Domestic Relations Order (EDRO) payments.

## **II. New Hire Reporting**

Federal legislation (42 USC 653a) requires employers to report information on newly hired or rehired employees to the Directory of New Hires for the state in which the employee works. Employers must report for each newly hired, or rehired employee:

- The employee's name;
- The employee's Social Security number (SSN);
- The employee's address;
- The employer's name;
- The employer's address; and
- The employer's Federal Employer Identification Number (FEIN).

Child support agencies use new hire information reported by employers to help locate parents, establish orders, or enforce existing orders.

Timely new hire reporting:

- Triggers the issuance of an *Income Withholding for Support* form, hereafter referred to as the IWN (Ref: the FEN058, attached). The IWN is the primary way child support is collected for distribution. It is a key factor in reducing or preventing an arrearage of child support owed by the employee. Collection of child support through the IWN may also reduce a custodial party's need for cash assistance;
- Allows each state to cross-match new hire data against its active workers' compensation and unemployment insurance claimant files. In some cases, this leads to either stopping payments or recovering erroneous payments. States have saved millions of dollars in erroneous unemployment insurance payments because of these cross-matches; and
- Triggers the issuance of *National Medical Support Notices* (NMSNs). Employers are required to respond to NMSNs and/or forward them to their plan administrators for the enrollment of dependents in available medical insurance programs. Providing private insurance for dependents reduces Medicaid costs for those children who qualify for medical assistance.

In Michigan, the Directory of New Hires is operated by the Michigan New Hires Operation Center, which is contracted by OCS. The Michigan New Hires Operation Center provides general information, FAQs, and reporting documents, and allows online reporting capability. For more information, or questions, contact:

**Michigan New Hires Operation Center**

P.O. Box 85010

Lansing, MI 48908-5010

[www.mi-newhire.com](http://www.mi-newhire.com)

**Phone:** (800) 524-9846  
**Fax:** (877) 318-1659

(Email contact information is available on the Michigan New Hires Operation Center Web site.)

Federal new hire reporting information is available on the following Web site:  
<http://www.acf.hhs.gov/programs/cse/newhire/employer/private/newhire.htm>.

### ***III. Income Withholding***

#### **General Income Withholding Information**

Federal and state laws require income withholdings for court-ordered child and spousal support obligations. An IWN may be issued to a source of income (i.e., employer) from a child support agency, an individual, a private collection agency or an attorney.

In Michigan, IWNs are usually issued by the Michigan Child Support Enforcement System (MiCSES) for the FOC office enforcing the support order. Michigan child support IWNs generally fall into two categories:

#### Title IV-D Cases

The term "IV-D" is derived from the federal law that created the child support enforcement program; it is Title IV-D of the Social Security Act (*42 USC 651 et seq*). Michigan's IV-D order/notice may be identified with the form number FEN058,<sup>2</sup> FEN58A or FEN58D in the lower-left corner of the order/notice. The FOC contact person's name is also on the form. About 95 percent of cases in Michigan are IV-D cases.

MiCSES will automatically issue IWNs to employers in accordance with support orders for IV-D employees who owe current and/or past-due child support within two working days after locating a new source of income (employer), such as when new hire information is processed by Michigan's New Hires Operation Center.

#### Non-IV-D Cases

This category refers to all child support cases enforced within Michigan other than those included in IV-D cases. Depending upon the preference of the parties involved, the parties may agree to use IWNs for collection of child support.

#### **Employer Responsibilities**

The IWN provides the employer with an amount to withhold and direction and requirements for submitting payment. Employer responsibilities regarding IV-D IWNs include, but are not limited to:

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<sup>2</sup> The Michigan Child Support program will not be sending the revised federal form (Attachment 3) until approximately June 2008. Until that time, the old version will be used.

- Complying with an IWN within seven days of receiving the notice (*MCL 552.611*);
- Deducting the requested child support amount from the employee's pay;
- Using the Consumer Credit Protection Act (CCPA) withholding limitations if the requested amount of child support withholding is not allowed, given the amount of pay the employee is receiving (*MCL 552.609*);
- Submitting the deducted child support amount to the MiSDU within three days of the date of withholding (*MCL 552.609*); and
- Notifying the issuing FOC office when the employee no longer works for the employer.<sup>3</sup>

The IWN remains in effect until the employer is provided with a new or terminated IWN from the FOC.<sup>4</sup>

Unless otherwise noted on the IWN in special circumstances, all IV-D cases and most non-IV-D cases in Michigan will direct the employer to remit payments to the MiSDU at:

MiSDU  
P.O. Box 30350  
Lansing, MI 48909-7850

Employers may send one payment for all employees' support withholdings to the MiSDU. However, the amount withheld for each income withholding must be specified and included with the payment. The MiSDU will receipt payments for a case based on the information provided by employers. The MiSDU is not able to receipt payments for multiple cases if the individual details for each case are not provided.

The MiSDU encourages employers to submit payments electronically. Employers may submit payments via electronic funds transfer (EFT) and electronic data interchange (EDI). The MiSDU also provides the option to submit support payments via credit card and Automated Clearing House (ACH). Employers may call (800) 817-0805 for more information and a demonstration of payment options.

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<sup>3</sup> The third page of the IWN provides a "Notification of Termination of Employment" section for the employer's use. For additional employer information and requirements, please read the IWN and its instructions.

<sup>4</sup> Employers must retain IWN(s) for all employees, even after they leave employment and even if the employer notifies the issuer of the IWN that the employee is no longer employed. If the employee returns, the employer must re-enact the IWN(s) and comply with any additional IWN(s) that the FOC may send.

#### **IV. Bonus Withholding**

Federal and state laws both define income to include bonuses for purposes of support withholding. Michigan statute defines income as “commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers” (*MCL 552.602[n]*).

Michigan IWNs contain information about bonus withholding. The court order directs the bonus language on the IWN. The language on the court order may instruct that a portion of any bonus paid to the non-custodial parent be withheld as additional support.

If the court’s underlying child support order contains language that instructs a portion of the non-custodial parent’s bonus to be paid as support, then the IV-D staff person must enter the percentage of the bonus to be paid as support. When this occurs, the “Additional Information” paragraph on page 3 of the IWN will read (Bonus Paragraph A):

“If a bonus or lump sum is payable to the employee, withhold X% of the gross net bonus. Additionally, contact the Michigan Special Initiatives Unit (SIU) at (866) 540-0008 to advise the SIU of the bonus paid to the MiSDU.”<sup>5</sup>

If the underlying child support order does not contain instructions on withholding a percentage of any bonuses paid to the non-custodial parent as support, then the “Additional Information” paragraph on page 3 of the IWN will read (Bonus Paragraph B):

“If a bonus or lump sum is payable to the employee, notify the Michigan Special Initiatives Unit (SIU) at (866) 540-0008 to be advised of the amount to remit.”

#### **Employer Responsibilities**

When employers are going to issue a bonus to employees, they must call the SIU at (866) 540-0008.

If the bonus withholding is governed by Bonus Paragraph A, then the employer must tell the SIU the amount of the bonus withheld.

If the bonus withholding is governed by Bonus Paragraph B, then the employer must contact the SIU to obtain the maximum amount of the bonus that may be withheld, depending on CCPA rules. (Ref: the DHS-1425 and the Sample Bonus Report, attached.)

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<sup>5</sup> “X” will print with the percentage that the individual is required to pay as support.

## **V. National Medical Support Notice (NMSN)**

Federal regulations (*45 Code of Federal Regulations [CFR] 303.32[c][1]*) require state child support enforcement agencies under Title IV-D of the Social Security Act to enforce the health care coverage provision in a child support order. Federal regulations (*45 CFR 303.32[a]*) also require agencies to use the NMSN to enforce health care coverage where appropriate. The design and intent of the NMSN is to increase access to health care coverage for children by using a standard form when issuing a medical support notice to employers.

The FOC office issues a NMSN to a source of income (i.e., employer) for parents<sup>6</sup> who are ordered to provide insurance to children. The NMSN is issued within two working days after locating a new source of income (employer), such as when new hire information is processed by Michigan's New Hires Operation Center.

The NMSN gives the employer a list of the dependents that must be enrolled in the employee's health insurance plan and direction on how to respond to the FOC.

The NMSN:

- Takes immediate effect;
- Will be sent to the parent's subsequent employers; and
- May be objected to (contested) by the parent named in the NMSN. The parent may request a review by the FOC **based on a mistake of fact**.

### **Employer Responsibilities**

Employers must review all information sent with the NMSN (including the instructions for both parts A and B) to identify all of their responsibilities. The NMSN may be accessed online at: <http://www.acf.dhhs.gov/programs/cse/forms/OMB-0970-0222.pdf>.

General employer responsibilities may include:<sup>7</sup>

- Completing items 1, 2, 3 or 4 of *Part A – Notice to Withhold for Health Care Coverage* of the NMSN and returning it to the FOC within 20 days of the date of the NMSN when family health insurance is not available to the employee, or the dependent(s) cannot be enrolled because the cost of insurance exceeds state or federal withholding limitations;
- Forwarding a copy of *Part B – Medical Support Notice to the Plan Administrator* to the plan administrator of each group health plan, when family health insurance is available to the employee; and/or

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<sup>6</sup> A NMSN can be issued for both non-custodial parents and custodial parties.

<sup>7</sup> Many FOC offices ask the Michigan Medical Support Enrollment (MI-MSE) Unit staff to assist in obtaining insurance information. Employers may provide policy-related information to an MI-MSE worker if contacted by an MI-MSE worker.

- Withholding from the employee's income any employee contributions required under each group health plan, in accordance with the applicable law of the employee's principal place of employment, and transferring employee contributions to the appropriate plan(s) dependents are eligible to receive.

Additional general responsibilities for the employer who is also the plan administrator may include:

- Completing items 1, 2, 3 and/or 4 of *Part B – Medical Support Notice to the Plan Administrator* of the NMSN and returning it to the FOC within 40 days of the date on the NMSN when family health insurance is available to the employee;
- Notifying the employee that health insurance coverage is available, or will be available to the dependents(s); and/or
- Furnishing the other party on the case (not the employee) with a description of the insurance available to the dependent(s), the effective date of coverage, and any other forms or documentation necessary to effectuate the coverage and submit claims.

Employers may contact the FOC if after reviewing the complete NMSN and instructions, they have any questions regarding their responsibilities.

## **VI. Quarterly Wage Reporting**

Michigan law (*MCL 421.13*), through the Michigan Employment Security Act, requires that each employer must file a quarterly wage report with the Michigan Unemployment Insurance Agency (MUIA). The quarterly wage report includes, for each of the employer's employees:

- The employee's name;
- The employee's SSN;
- The employee's gross wages paid during each quarter;
- The employer's name;
- The employer's address;
- The employer's FEIN; and
- The employer's state employer identification number.

For additional information on quarterly wage reporting or to file electronic wage reporting, employers can go to the Department of Labor and Economic Growth (DLEG) unemployment insurance agency Web site at:  
<http://www.michigan.gov/uia/0,1607,7-118--77970--,00.html>.

## **PART B - Frequently Asked Questions (FAQs)**

### **I. IWN<sup>8</sup>**

#### **1. HOW WILL I BE INFORMED THAT I HAVE TO START WITHHOLDING CHILD SUPPORT FROM AN EMPLOYEE'S INCOME?**

You<sup>9</sup> will receive the IWN (FEN058 or FEN58A) as described in Part A, Section III of this Job Aid.

#### **2. I WOULD RATHER NOT GET INVOLVED IN WITHHOLDING FOR CHILD SUPPORT OR INSURANCE PREMIUMS. CAN I TERMINATE OR REFUSE TO HIRE INDIVIDUALS WHO HAVE WITHHOLDING AGAINST THEIR INCOME?**

No. You commit an unlawful employment practice if you discharge, refuse to hire, or in any other manner discriminate, retaliate or take disciplinary action against an employee because of the entry of or service of an order to withhold or because of the obligations the IWN imposes on you (*MCL 552.623*).

#### **3. HOW LONG AFTER I RECEIVE THE IWN DO I BEGIN THE WITHHOLDING FROM AN EMPLOYEE'S INCOME, AND WHEN DO I HAVE TO SEND IN THE PAYMENT?**

You are to begin withholding for child support within seven days after you receive the notice. This withholding amount must be sent to the address on the IWN within three working days after the date of each withholding. Failure to withhold the correct amount and remit each payment within the three working days can result in legal action being taken against you (*MCL 552.611*).

#### **4. WHAT WILL HAPPEN IF I DON'T HONOR THE IWN FOR SUPPORT?**

If you do not withhold income for child support and/or insurance premiums as specified in the IWN and/or NMSN, you may be liable for the full amount of support, as payments accumulate from the mailing date of the notice. You may also be held in contempt of court, which may result in a fine or a judgment against you (*MCL 552.613*).

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<sup>8</sup> These FAQs will apply to IV-D IWNs only. They may apply to non-IV-D IWNs as well, but employers must contact the individual who issued the non-IV-D IWN for clarification.

<sup>9</sup> "You" in these FAQs refers to employers or other sources of income to which an IWN or NMSN was sent.

## **5. HOW DO I KNOW WHEN TO STOP THE WITHHOLDING?**

The withholding remains in effect until you are notified in writing by the FOC. You may **not** stop the withholding merely because the employee has asked you to do so, or because your calculations indicate the arrears are paid. Failure to withhold may result in your liability for the payments not withheld. If the employee's employment is discontinued or interrupted for a period of 14 or more days, you must immediately notify the FOC office. If the employee returns to work, you must reinstate the withholding unless otherwise notified in writing by the issuer of the IWN. You are also required to report the employee as a new hire if (s)he returns to work (*MCL 552.614[2]*).

## **6. I AM CONCERNED THAT THE WITHHOLDING PROCESS WILL ADD ADMINISTRATIVE COSTS TO MY BUSINESS. MAY I CHARGE A FEE TO THE EMPLOYEE?**

No. Michigan law does not allow you to charge employees fees for processing the IWN unless you have full, free, and written consent of the employee, obtained without intimidation or fear of discharge for refusal to permit the withholding (*MCL 408.477[1]*).

## **7. WHERE DO I SEND THE CHILD SUPPORT THAT I HAVE WITHHELD FROM AN EMPLOYEE'S WAGES?**

Send a check to:

MiSDU  
P.O. Box 30350  
Lansing, MI 48909-7850

Make the check payable to: Michigan State Disbursement Unit (MiSDU).

Methods for making electronic payments are available. For more information, call the MiSDU Employer Assistance Line at (800) 817-0805.

## **8. IF AN EMPLOYEE TERMINATES EMPLOYMENT AND IS LATER REHIRED, DO I STILL HONOR THE OLD IWN AND/OR NMSN, OR DO I WAIT UNTIL I RECEIVE A NEW IWN AND/OR NMSN?**

IWNs are continuous until you receive a termination notice from the FOC. If an employee returns to work, you must begin deducting child support as required by the

previously received IWN. You are also required to report the employee as a new hire if (s)he returns to work.

### **9. DOES CHILD SUPPORT TAKE PRIORITY OVER OTHER INCOME WITHHOLDINGS?**

Yes. Child support withholdings **take priority** over any other legal process carried out under state law against the same wages. This means that child support must be withheld from disposable income before deductions for other withholding orders are taken, even if the other withholding orders were served first. The only exception is if a federal tax levy is received **before** the IWN (*26 USC 6402[c]*).

### **10. WHAT DO I DO WHEN THE EMPLOYEE LEAVES MY EMPLOY?**

You must notify the FOC or the provider of the IWN in writing when you or the employee terminates employment. You must provide the FOC or the provider of the IWN with the employee's name, date of separation, case identifier (which is the case/docket number), last-known home address, and the name and address of the employee's new employer, if known. You must also provide information regarding medical insurance upon an employee's termination of employment.

### **11. WHAT SHOULD I DO IF THE EMPLOYEE TELLS ME (S)HE HAS FILED FOR BANKRUPTCY?**

You must keep deducting child support until the FOC office that initiated the income withholding contacts you. Some chapters of bankruptcy include an automatic stay on an income withholding, while some allow continuance of the withholding for current support, and others continue both current support and arrears withholding. You may advise the employee to contact the FOC office that initiated the income withholding.

### **12. WHAT ADDITIONAL INFORMATION AM I REQUIRED TO SUBMIT TO THE FOC OFFICE?**

If you receive a NMSN for the employee, you must also provide information regarding health insurance. See Part A, Section V and Part B, Section II of this Job Aid for more information.

### **13. MY EMPLOYER NAME AND/OR ADDRESS HAS CHANGED. HOW DO I SUBMIT THE NEW INFORMATION?**

Employers are asked to contact the MiSDU to request a change to their name or address. Employers must identify:

- That they are submitting a request to change their name and/or address;
- The contact information (name, phone number and/or email address) of an individual who may be contacted to confirm information;
- The name of the employer (if changing the name, include both the old and new names);
- The address of the employer (if changing the address, include both the old and new addresses); and
- The FEIN of the employer.

Employers may submit requests on company letterhead to:

MiSDU  
P.O. Box 30354  
Lansing, MI 48909-7850

#### **14. WHAT INFORMATION DO I NEED TO SUBMIT WITH MY EMPLOYEE SUPPORT PAYMENTS TO THE MiSDU?**

You must include the following information with each support payment withheld and sent to the MiSDU:

- Employee name;
- Employee SSN (format: 999-99-9999);
- Michigan docket number (format: 9999-999999-AA);
- IV-D case number (for each income withholding);
- Date withheld;
- Amount withheld; and
- Your FEIN (format: 99-9999999).

Failure to provide all of the necessary identifying information could result in the payment being returned or marked as unidentified.

You may send withheld payments to the MiSDU electronically or by check. Please call the MiSDU Employer Assistance Line at (800) 817-0805 to set up electronic payments and receive the savings and efficiencies that this payment method provides.

Mail checks to:

MiSDU  
P.O. Box 30350  
Lansing, MI 48909-7850

## 15. CAN I SUBMIT SUPPORT PAYMENTS ELECTRONICALLY?

Yes. If you are paying by check, you are encouraged to ask the MiSDU to demonstrate how electronic payments can reduce costs and staff time. Please call (800) 817-0805 for assistance.

Payments can be sent electronically in the following ways:

- From your bank account to the MiSDU bank account. Call the MiSDU Employer Assistance Line at (800) 817-0805 for assistance in setting this up.
- Over the Internet. Go to the MiSDU payments page at <https://www.misdu.com> to submit payments. Click on "Registration" and then "An Employer." If additional assistance is needed, please call the MiSDU at the phone number above. Payments can also be made by credit card or account debit.

## 16. WHAT DO I DO IF MY PAY PERIODS ARE NOT THE SAME FREQUENCY AS THE ORDER?

Michigan law (*MCL 552.605c*) requires that all support orders be stated in monthly amounts payable on the first of each month in advance. To assist employers that pay more frequently than once a month, the IWN divides the withholding into monthly, semi-monthly, bi-weekly and weekly amounts. In the event that your pay periods are more frequent than monthly, withhold the appropriate amount indicated on the IWN corresponding to your method of payroll for your pay period so that the total withheld during the month will total the monthly amount due. You must forward payments to the address on the IWN within three working days after the date of withholding.

## 17. CAN I COMBINE ALL THE WITHHOLDINGS I MAKE IN ONE PAY PERIOD FOR ALL EMPLOYEES AND SEND ONE CHECK?

Yes. You can combine all payments going to the MiSDU into one check. The withholdings must include the following information for **each** income withholding order for **each** employee (this information will ensure that payments are not delayed):

- Employee name;
- Employee SSN (format: 999-99-9999);
- Michigan docket number (format: 9999-999999-AA);
- IV-D case number (for each income withholding);
- Date withheld;
- Amount withheld; and
- Employer FEIN (format: 99-9999999).

## 18. IS THERE ANY LIMIT TO THE AMOUNT THAT CAN BE WITHHELD? IF SO, HOW DO I FIGURE THAT AMOUNT?

Yes. The total amount allowed to be withheld from any employee's paycheck is limited by the CCPA even if the employee has more than one withholding (*MCL 552.609*). The limits provided in the CCPA are from 50 to 65 percent of the employee's disposable earnings. If the IWN withholding amount for the IWN(s) is less than 50 percent of the employee's disposable earnings, submit the amount specified on the IWN. However, if the IWN's total withholding amount exceeds 50 percent of the employee's disposable income, there are guidelines that must be followed to determine the amount to be withheld and sent. To correctly figure the withholding amount, you must follow these steps:

1. Determine the correct percentage of income to be withheld. For child support income withholdings, a maximum of 65 percent of the employee's disposable earnings may be taken:

- 65 percent – If the employee is **not** supporting other dependents and the child support arrearage is more than 12 weeks old;
- 60 percent – If the employee is **not** supporting other dependents and the child support arrearage is less than 12 weeks old;
- 55 percent – If the employee is supporting other dependents and the child support arrearage is more than 12 weeks old; or
- 50 percent – If the employee is supporting other dependents and the child support arrearage is less than 12 weeks old.

2. Determine the disposable earnings for the pay period, even if the employee has worked only part-time.<sup>10</sup>

3. Calculate the maximum amount of the disposable earnings subject to withholding by multiplying the disposable earnings from Step 2 by the applicable percentage from Step 1.

4. The amount calculated in Step 3 is the maximum support amount that can be withheld. If this calculated amount is **less** than the total amount specified on the IWN, this entire calculated amount is sent to the address provided on the IWN as the child support withheld. If this calculated amount is **more** than the total amount specified on the IWN, withhold the amount provided on the IWN.

Note: If you have received a NMSN(s) for the employee to provide insurance for dependents, the IWN withholding amount and the cost of that health insurance enrollment (i.e., premiums) must **not** exceed the CCPA limit.

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<sup>10</sup> You must first subtract the tax-deferred amount before calculating the amount of taxes to be paid, and then add the tax-deferred amount back into the income before calculating the maximum amount of child support to be deducted. Child support must be satisfied before any deferment.

If you are unsure of the correct percentage to use, contact the FOC office listed on the IWN.

## 19. HOW SHOULD I CALCULATE THE AMOUNT TO BE WITHHELD IF THE EMPLOYEE HAS MORE THAN ONE INCOME WITHHOLDING?

If the employee has more than one income withholding, you must use the following formula to determine how much of the total withholding to send for each income withholding:

1. Calculate the maximum support amount that can be withheld (see Question 18, steps 1-3).
2. Sum the **current** withholding amounts across all income withholdings;
3. Sum the **arrears** withholding amounts across all income withholdings; and
4. Locate the maximum amount of withholding allowed by each order for medical insurance, if provided on the NMSN.

The amount of support is prorated among the income withholdings according to the amount due in each priority level.

### Current Support:<sup>11</sup>

- If the employee has sufficient income (once the CCPA limitation has been determined) to cover all of the current withholding amounts, deductions are made for current support for all families.
- If the income is **not** sufficient to cover all of the current support due, the employer must prorate the current support across all IWNs:
  - **Sum** the current withholding amounts for all IWNs, calculating the total current withholding amount due;
  - **Divide** the current withholding amount due in each order by the total current withholding amount due to determine each IWN's percentage share; and
  - **Multiply** the percentage share for each IWN by the CCPA limit to determine what portion of the CCPA is withheld for each IWN.

Example: The employee has three IWNs:

IWN 1 = \$300 current support, \$200 in arrears, per month. IWN also indicates that arrears are more than 12 weeks.

IWN 2 = \$150 current support, \$0 in arrears, per month.

IWN 3 = \$200 current support, \$150 in arrears, per month. IWN also indicates that arrears are more than 12 weeks.

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<sup>11</sup> "Current support" includes the total of all amounts listed on the IWN as "current child support," "current cash medical support" and "spousal support."

Total = \$650 current support, \$350 in arrears, per month.

The employee only makes \$1,000 in disposable income. Because the total amount of child support is higher than 50 percent of \$1,000 ( $\$650 + \$350 = \$1000$ ), the employer is held to the CCPA limitation. This employee is supporting more than one family, and arrears are in excess of 12 weeks of support, so the CCPA limitation for this employee is 55 percent, or \$550.

The total amount of current support is \$650 and the employer is only able to deduct \$550. So, the employer must determine the percentage of current support that each IWN has:

$$\text{IWN 1} = \$300 / \$650 = 46\%$$

$$\text{IWN 2} = \$150 / \$650 = 23\%$$

$$\text{IWN 3} = \$200 / \$650 = 31\%$$

The employer must then multiply the amount of available income to each IWN to determine how much each IWN will receive:

$$\text{IWN 1} = 46\% \times \$550 = \$253$$

$$\text{IWN 2} = 23\% \times \$550 = \$126.50$$

$$\text{IWN 3} = 31\% \times \$550 = \$170.50$$

This is the amount of income that must be submitted to the MiSDU for each of the IWNs for current support.

#### Arrears:<sup>12</sup>

- If the employee has disposable income available after all the current support is paid and the income is sufficient to cover all arrears, then withhold all arrears requested.
- If the disposable income remaining after all current support is paid is **not** sufficient to cover arrears withholdings, prorate among the families in the same fashion as for current monthly support, but using the arrears withholding amounts instead of the current withholding amounts.

#### Health Insurance Premiums

- If the employee has disposable income available after all current support and arrears are withheld, and if the cost for medical insurance does not exceed any amount specified on the NMSN, withhold for medical insurance.

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<sup>12</sup> "Arrears" includes the total of all amounts listed on the IWN as "past-due child support," "past-due cash medical support," "past-due spousal support" and "other."

- If the employee does not have enough disposable income available after all current support and arrears are withheld to withhold medical insurance costs, or if the cost for medical insurance exceeds the amount specified on the NMSN, then the CCPA limit has been met and medical insurance may not be withheld.

## **20. HOW SHOULD I HANDLE THE MONEY THAT MY EMPLOYEE IS PUTTING IN A TAX-DEFERRED PLAN?**

You must first subtract the tax-deferred amount before calculating the amount of taxes to be paid, and then add the tax-deferred amount back into the income before calculating the maximum amount of child support to be deducted. Child support must be satisfied before any deferment.

## **21. WHAT SHOULD I DO IF AN EMPLOYEE COMES TO ME AFTER I HAVE RECEIVED THE ORDER/NOTICE TO WITHHOLD INCOME FOR SUPPORT AND WANTS TO MAKE VOLUNTARY PAYMENTS FOR CHILD SUPPORT?**

The employee needs to direct this request to the FOC office on the IWN. If the order/notice was not sent by the FOC office, the employee must contact the provider of the IWN.

You must comply with the IWN and begin withholding within seven days of receipt. The IWN will remain in effect until you receive further documentation from the issuing party.

## **22. IF THE EMPLOYEE TELLS ME THAT THE AMOUNT TO BE DEDUCTED IS WRONG, WHAT SHOULD I DO?**

Instruct the employee to contact the FOC office or provider on the IWN.

You must comply with the IWN and begin withholding within seven days of receipt. The IWN will remain in effect until you receive further documentation from the issuing party.

## **23. IF I HAVE SATISFIED THE REQUIRED AMOUNT FOR THE MONTH AND MY EMPLOYEE RECEIVES ADDITIONAL MONEY SUCH AS A BONUS OR COMMISSION CHECK, DO I HAVE TO DEDUCT FROM THIS TOO?**

Employee bonus payments may qualify for child support withholding. Bonus instructions are on the Michigan IWN. If you are about to pay employee bonuses, please contact the Special Initiatives Unit (SIU) by phone at: (866) 540-0008, by email at: [DHS-OCS-EmployerBonus@michigan.gov](mailto:DHS-OCS-EmployerBonus@michigan.gov), or by fax at: (517) 335-3030.

After you contact the SIU, you will receive a bonus report that will identify employees and their maximum bonus withholding amounts. (Ref: the DHS-1425 and the Sample Bonus Report, attached.)

#### **24. DO I HAVE TO TELL THE EMPLOYEE WHEN AN IWN IS RECEIVED?**

The state of Michigan sends a copy of the IWN to the employee at the same time the IWN is sent to you. However, you may need to provide a copy to the employee if the designated field is checked.

#### **25. I NOTICED THAT THE NAME OF THE FORM USED TO WITHHOLD CHILD SUPPORT HAS BEEN CHANGED TO *INCOME WITHHOLDING FOR SUPPORT*. IS THIS THE SAME FORM AS THE *IWN (INCOME WITHHOLDING NOTICE)*, *IWO (INCOME WITHHOLDING ORDER)*, AND *ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT*?**

There is only one federally recognized withholding form: *Income Withholding for Support*, and that is the form Michigan uses. This form used to be called the *Order/Notice to Withhold Income for Child Support*. On Web sites and in other material, you may see the terms "IWN," "IWO," "order," and "notice." These terms are all used interchangeably to refer to the single form *Income Withholding for Support*. In its material, Michigan usually uses the actual name of the form or the term "IWN."

## **II. NMSN**

#### **26. WHAT IS A NMSN?**

A NMSN is a "qualified medical child support order" (QMCSO) used to enforce the health care coverage provision of a child support order. It requires the employer to enroll dependents listed on the NMSN in health insurance plans available to the named employee. Please refer to Part A, Section V of this Job Aid for additional information.

#### **27. HOW WILL I BE INFORMED THAT I HAVE TO ENROLL THE CHILD(REN) IN A HEALTH INSURANCE PLAN AND BEGIN MAKING INSURANCE PREMIUM WITHHOLDINGS?**

You will receive a form called the *National Medical Support Notice* (NMSN). You do not need to withhold for a health insurance premium if you do not offer your employees and their families health insurance. However, you must advise the initiator of the NMSN of the lack of coverage or the type of enrolled insurance.

**28. HOW LONG AFTER RECEIPT DOES THE NMSN TAKE EFFECT?**

Within 20 business days of the date of the NMSN:

- You must complete Part A of the form; and
- Return it to the issuing agency or forward Part B to the plan administrator.

Within 40 business days of the date of the NMSN:

- The plan administrator must enroll the children in its health insurance plan(s), without regard to any enrollment period restrictions, and complete and return Part B to you, the employer, and to the issuing child support agency; and
- You must either begin withholding, or if the amount exceeds the limits, return Part A to the issuing child support agency and notify the plan administrator to remove the dependents from health care coverage immediately. The plan administrator must also notify the custodial party and issuing child support agency of termination of health insurance coverage.

**29. WHERE DO I SEND THE HEALTH INSURANCE PREMIUMS THAT I HAVE WITHHELD FROM AN EMPLOYEE'S INCOME?**

Pay health insurance premiums directly to the insurance carrier.

**30. AT WHAT POINT, WHEN PROCESSING PAYROLL DEDUCTIONS, DO I WITHHOLD FOR HEALTH INSURANCE PREMIUMS?**

Withholdings for insurance premiums follow mandatory deductions (i.e., taxes, unemployment insurance, workers' compensation insurance, etc.) and support withholdings.

**31. IS THE HEALTH INSURANCE PREMIUM THE ONLY MEDICAL COVERAGE FOR WHICH THE EMPLOYEE WILL BE RESPONSIBLE?**

No. On occasion, an employee may also be ordered to pay a specific amount of money each month toward medical costs. These specific medical amounts will be listed separately in the IWV, and are included in the formula for withholdings (see Question 19).

**32. IF I RECEIVE AN ORDER/NOTICE OR NMSN, BUT THE EMPLOYEE DECLARES THAT (S)HE IS PROVIDING INSURANCE THROUGH OTHER MEANS, WHAT SHOULD I DO?**

The NMSN provides clarification in the instructions to the plan administrator for Part B, specifically concerning unlawful refusal to enroll and period of coverage. You may want to tell the employee to contact the FOC office so that the FOC may direct you otherwise if appropriate.

**33. WHAT HAPPENS IF THE EMPLOYEE DOES NOT WANT HEALTH INSURANCE FOR HIMSELF/HERSELF, BUT IS ORDERED TO PUT THE CHILD(REN) ON THE HEALTH INSURANCE PLAN THE COMPANY OFFERS?**

If it is possible to enroll the child(ren) on the plan without the employee, that is adequate. However, most policies require that the employee be on the plan also. In that situation, the employee has no choice but to be included in the plan, so the child(ren) are covered as required by the court order.

**34. IS IT MY RESPONSIBILITY TO NOTIFY THE FOC OFFICE WHEN THE INSURANCE PREMIUMS INCREASE?**

No, it is the employee's responsibility to inform the FOC office of the change and possibly request a modification based on the increase in premiums. However, when coverage terminates, or if you can no longer withhold the insurance premium due to withholding limits, it is your responsibility to notify the FOC office that sent the NMSN.

**35. WILL THE INSURANCE COMPANY ALLOW ME TO ENROLL THE CHILD(REN) IF IT IS NOT DURING OPEN ENROLLMENT?**

The NMSN constitutes a "significant life change" and the insurance company should accept enrollment of the child(ren) at any time.

**36. WHAT DO I DO IF THE EMPLOYEE IS NOT ENROLLED IN A HEALTH INSURANCE PLAN?**

The child(ren) subject to the order must be enrolled in a health insurance plan available to the employee even if the employee is not enrolled. The employee may choose a plan on behalf of the child(ren) during the processing of the NMSN, or the plan administrator may enroll the dependent(s) and if necessary, the employee, in the available health benefit plan.

### **37. HOW MUCH CAN AN EMPLOYER WITHHOLD FOR HEALTH COVERAGE?**

Limitations to the enrollment are met if the employee's cost for providing cash support and private health care coverage exceeds the federal withholding limitations established by the federal CCPA.<sup>13</sup> The CCPA allows an employer to withhold as much as 65 percent of an employee's disposable income,<sup>14</sup> depending on the case and the employee's situation. For more information on CCPA percentage limits for withholdings, see Question 18.

42 CFR 303.31(a)(1) states that "health insurance is considered reasonable in cost if it is employment-related or other group health insurance, regardless of service delivery mechanism." Therefore, federal regulations consider the cost of health insurance to be "reasonable" if you offer insurance to the individual.

An individual's court order for child support can establish further definitions of "reasonable cost" for the parties on that order. A reasonable cost determination for an individual, beyond the federal definition, must be made by the FOC office that enforces that individual's court order.

If your employee disagrees with the enrollment that is directed through the NMSN, (s)he must contact his/her FOC office. You must proceed in accordance with the NMSN until further documentation from the FOC office is received from the court.

### **38. HOW MAY I OBTAIN A COPY OF THE NMSN?**

The NMSN can be viewed online at:

<http://www.acf.dhhs.gov/programs/cse/forms/OMB-0970-0222.pdf>.

### **39. WILL I HAVE TO TELL THE EMPLOYEE WHEN A NMSN IS RECEIVED?**

The state of Michigan sends an informational letter about the NMSN to the employee at the same time that the NMSN is sent to the employer. The employer may need to contact the employee, as indicated in the instructions of the NMSN; however, a copy of the NMSN does not need to be provided.

### **40. I AM CONCERNED THAT THE NMSN PROCESS WILL ADD ADMINISTRATIVE COSTS TO MY BUSINESS. MAY I CHARGE A FEE TO THE EMPLOYEE?**

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<sup>13</sup> 15 USC 1673(b). If the CCPA limit is met, Michigan requires employers to give priority to cash withholding before medical enrollment.

<sup>14</sup> "Disposable income" is the income remaining after subtracting mandatory deductions such as federal, state and local taxes; FICA and Medicare taxes; unemployment insurance and workers' compensation insurance; and additional deductions mandated by state law.

No. Michigan law does not allow you to charge employees fees for processing the NMSN unless the employer has full, free, and written consent of the employee, obtained without intimidation or fear of discharge for refusal to permit the withholding (*MCL 408.477[1]*).

#### **41. WHEN WILL HEALTH CARE COVERAGE WITHHOLDING STOP?**

The NMSN remains in effect until you are notified by the issuing child support agency or receive a court order regarding any changes. However, even if the child support agency dismisses the NMSN, the employee may still elect to continue coverage.

Because the NMSN remains in effect, and is binding until further notice by the issuing agency, you are required to keep a record of the NMSN and enforce it if the employee who left employment with you returns to work for you.

#### **42. WHAT IF THE EMPLOYEE TERMINATES HIS/HER EMPLOYMENT?**

If the employee terminates his/her employment, you must notify the issuing child support agency promptly and provide the termination date and the employee's last-known home address. You may also provide the new employer's name and address, as well as the name of any other provider of a health benefit plan (if known).

The NMSN remains in effect and is binding upon the employer until further notice from the court or the issuing agency. Therefore, you are required to keep a record of the NMSN and enforce it if the employee who left employment with you returns to work for you.

You are also required to report the employee as a new hire if (s)he returns to work.

#### **43. ARE EMPLOYERS AND PLAN ADMINISTRATORS REQUIRED TO COMPLY WITH THE NMSN?**

Yes. Federal law requires all employers and plan administrators who offer dependent coverage to make health care coverage available to children of employees who are eligible and qualify for such coverage pursuant to a medical child support order (*29 USC 1169[a]*). The NMSN forms were developed for this purpose by the federal Departments of Health and Human Services and Labor in consultation with payroll professionals, as well as sponsors and administrators of group health plans.

#### **44. WHAT IF THERE ARE MULTIPLE PLANS AVAILABLE TO THE EMPLOYEE AND HIS/HER DEPENDENTS? WHICH PLAN DO I SELECT TO ENROLL THEM IN?**

Plan selection criteria are as follows:

Employee already enrolled:

- If the employee is enrolled in a health benefit plan that offers dependent coverage, that plan must be selected.

Employee not enrolled, multiple plans available to children:

- If the employee is not enrolled in a health benefit plan or is not enrolled in a plan that offers dependent coverage, and if more than one plan with dependent coverage is offered, the plan administrator must enroll the dependents and if necessary, the employee, in the health benefit plan selected by the issuing agency in consultation with the custodial party or in any default option if no response is received from the issuing agency within 20 days.

#### **45. WHAT SHOULD I DO IF A UNION PROVIDES HEALTH CARE COVERAGE?**

You should consider the union the plan administrator and forward Part B of the NMSN to the union, unless you've checked Box 1, 2, or 3 in the "Employer Response" (Part A) of the NMSN.

#### **46. OUR COMPANY IS QUITE SMALL AND DOES NOT OFFER GROUP HEALTH CARE COVERAGE. DO WE HAVE TO PURCHASE GROUP HEALTH CARE COVERAGE FOR THE NMSN?**

No. Your employee would be required to provide health care coverage for a dependent if it were available at a reasonable cost and accessible to the child(ren). If you do not offer this coverage to any of your employees, you are not obligated to provide it for this purpose.

Within 20 business days of the date of the NMSN, you must check Box 1 in the "Employer Response" (Part A) of the NMSN and mail Part A to the issuing agency shown on the NMSN.

#### **47. WHAT IF THE CHILD IS COVERED BY MEDICAID?**

Medicaid programs are not considered a substitute for health care coverage. You must still comply with the NMSN until the FOC provides further direction.

**48. WHAT INFORMATION MAY I BE ASKED TO PROVIDE THAT IS NOT LISTED ON THE NMSN?**

You may be asked to provide the policy number, group number and the address of the provider.

**49. WHO SHOULD I CONTACT IF I NEED ADDITIONAL INFORMATION?**

Please contact the MiSDU Employer Assistance Line at (800) 817-0805 for additional information or assistance.