

MICHIGAN CHILD SUPPORT PROGRAM EMPLOYER FREQUENTLY ASKED QUESTIONS (FAQs)

Employers and other sources of income are important partners in the child support program. The Michigan Office of Child Support thanks you for helping ensure children receive the support they deserve. We recognize your responsibilities can be challenging and we are here to support you as much as possible.

Thank you!

These FAQs are a supplement to the Michigan Child Support Program Quick Reference Guide for Employers – DHS-Pub-95, available online:

www.mfia.state.mi.us/ChildSupport/policy/Documents/DHS-Pub-95.pdf. The FAQs provide background information for the required employer actions and timeframes that are listed in the guide.¹ Refer to the guide for the list of required employer actions and timeframes. A list of acronyms used in this document is included in Section G.

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A. General Information

1. Who should I contact if I need additional information or assistance?

- **Policy or General Operations:**
Contacts for all states and territories are listed on the federal Office of Child Support Enforcement's (OCSE's) Employers page: www.acf.hhs.gov/programs/css/employers under State Contacts and Program Requirements.
- **New Hire Reporting:**
Visit the Michigan New Hires Operation Center's website: www.mi-newhire.com, or contact the New Hires Operations Center at 800-524-9846.

¹ This publication uses the term "employer" throughout, and the intended audience is employers. However, many of the responsibilities, questions, and answers are also applicable to health plan administrators and sources of income that are not employers.

- **Income withholding notices (IWNs),² National Medical Support Notices (NMSNs),³ or requests for verification of employment, income, and/or health coverage:**
Contact the issuer or person/office that sent the notice or request. The issuer's contact information is provided on the notice or request.

In Michigan, the child support agency that issues IWNs and NMSNs is the Friend of the Court (FOC) office. A list of all county FOC offices' Interactive Voice Response phone numbers is available on the Michigan Department of Health and Human Services (MDHHS) child support website: www.michigan.gov/ChildSupport/ (under Quick Links, click County Friend of the Court Contact Information).

- **Payments:**
Visit the Michigan State Disbursement Unit (MiSDU) website: www.misdu.com, or call the MiSDU Employer Assistance Line at 800-817-0805.⁴
- **Lump-Sum Reporting:**
Contact the Office of Child Support (OCS) Central Operations at 866-540-0008 (when prompted, say "Employer Bonus").

B. New Hire Reporting

Federal legislation requires employers to report information about newly hired or rehired employees to the State Directory of New Hires of the state in which the employee works.⁵ Employers with employees in multiple states can report to one state by registering with OCSE as a multi-state employer. Federal government employers report directly to the National Directory of New Hires.⁶ A newly hired employee is an employee who has not previously been employed by the employer, or was previously employed by the employer but has been separated from the prior employment for at least 60 consecutive days (also called a rehire).⁷ You can find more information about new hire reporting at: www.mi-newhire.com.

2. How do states use new hire information?

Child support agencies use new hire information to locate parents, establish support orders or enforce existing support orders. Additionally, new hire reporting allows each state to cross-match new hire data against its active public assistance, workers' compensation and unemployment insurance claimant files. In some cases, this leads to either stopping or recovering improper or fraudulent benefit payments.

² An IWN is the notice sent to a source of income, directing it to withhold income in accordance with a court's support order. Ref: Section D for more information on IWNs.

³ A NMSN is a notice to employers to enroll an employee's dependents in the employer's health coverage. Ref: Section E for more information on NMSNs.

⁴ The MiSDU is Michigan's designated site to which employers send withheld child support payments to be processed for Michigan cases.

⁵ Social Security Act Section 453A

⁶ Social Security Act Section 453A(b)(1)(C) directs federal government employers to report directly to the National Directory of New Hires.

⁷ Trade Adjustment Assistance Extension Act of 2011 (Public Law 112-40) and Section 453A(a)(2) of the Social Security Act

C. Verification of Employment, Income and Health Coverage

Employers are required to respond to requests (or subpoenas) to verify income/employment for an employee who was employed within three years before the date of the request (or subpoena).⁸ Employers may be asked to provide the company's name, contact information, address(es), and Federal Employer Identification Number (FEIN) as well as the employee's status, wages/income, Social Security number, date of birth, address, health coverage, disability or workers' compensation information, etc. Michigan child support agency forms/letters for these types of requests include the:

- Employer's Disclosure of Income and Health Insurance Information (FEN305, FOC22);
- Employer's Disclosure of Health Insurance Information (FEN306);
- Employment Status Disclosure (FEN307, FOC22b, RNMFOC22);
- Employer's Verification of Income (2030); and
- Employer's Verification of Income and Health Insurance Information (2031).

D. Income Withholding for Support Notice

Federal⁹ and state¹⁰ laws require income withholding for court-ordered support obligations. A form titled *Income Withholding for Support* (also known as an income withholding notice or IWN) may be sent to an employer by a child support agency, an individual, a private collection agency or an attorney. The IWN directs an employer or other source of income to withhold income in accordance with a court's support order. Many employers refer to this notice as an income withholding order or IWO. However, in Michigan, the FOC issues this form as a notice of the underlying income withholding order or the income withholding provisions in the underlying support order.

Employers may receive and respond to IWNs electronically from states by participating in the federal Electronic Income Withholding Order (e-IWO) Portal. For more information, refer to the Electronic Income Withholding Orders (E-IWO) page on OCSE's Employer Services website at: www.acf.hhs.gov/programs/css/employers/e-iwo. Employers may also use the e-IWO Portal to report employment terminations and lump-sum income.

3. How will I be informed that I have to start withholding child support from an employee's income?

You will receive an IWN.¹¹ You can view an example of an IWN at: www.mfia.state.mi.us/ChildSupport/policy/Documents/FEN058.doc

⁸ Michigan Compiled Law (MCL) 400.234 and MCL 552.518

⁹ Section 466 of the Social Security Act and 45 Code of Federal Regulations (CFR) 303.100

¹⁰ MCL 552.604 and MCL 552.607

¹¹ The FOC issues three versions of the *Income Withholding for Support* form. These versions are each identified with a specific form identifier in the bottom-left corner: the MiCSES FEN058 is used for initiating and amending withholding, the MiCSES FEN58A is used for one-time lump-sum withholding, and the MiCSES FEN58D is used for ending withholding.

4. Do I have to tell the employee when I receive an IWN?

The FOC 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 (s)he works in a state other than the state that issued the IWN, or if there is a checkmark by the last sentence in the IWN's "Remittance Information" section. (The sentence states: "If checked, the employer/income withholder must provide a copy of this form to the employee/obligor.")

5. Can I terminate or refuse to hire individuals who have withholding against their income?

No. Michigan law states that an employer must not use an IWN as a reason for refusing to employ, discharging, taking disciplinary action against, or imposing a penalty against a child support payer.¹² If you violate this statute, you may be convicted of a misdemeanor, may be required to pay a fine of up to \$500, and may be required to pay restitution to the employee.

6. What will happen if I don't honor the IWN for support?

If you do not withhold income for support as specified in the IWN, you can be held liable for support payments you knowingly or intentionally failed to withhold, beginning with the first payroll period that occurred seven days after the date of the notice.¹³ A court may also hold you in contempt, which may result in a fine or a judgment against you.¹⁴

7. May I charge a fee to the employee to help defray the administrative costs of the withholding? If yes, how much may I charge?

Yes, Michigan law allows employers to charge an employee whose principal place of employment is Michigan a withholding fee each time the employer withholds support in response to an IWN.¹⁵

If you send support payments electronically, you may charge the employee \$1 each time a payment is withheld, but may not exceed \$2 per month. If you send support payments through non-electronic means, you may charge the employee \$2 each time a payment is withheld, but may not exceed \$4 per month.

You will retain this fee and must not send it to the MiSDU. The MiSDU or FOC will not collect the withholding fee from the employee and will not pay the withholding fee to you.

If the employee's principal place of employment is not Michigan, follow the law of the state of the employee's principal place of employment.

¹² MCL 552.623; The child support payer is the parent obligated to pay child support and may also be referred to as the "obligor" or "non-custodial parent."

¹³ MCL 552.611 and MCL 552.611a(2)

¹⁴ MCL 552.613

¹⁵ MCL 552.623

8. Does child support take priority over other income withholdings or garnishments?

Yes. Child support withholdings take priority over any other legal process carried out under state law against the same income,¹⁶ including state tax levies and garnishments.¹⁷ This means that support must be withheld from disposable earnings¹⁸ before deductions for garnishments are taken, even if the garnishments were served first. The only exception is if you receive a federal tax levy *before* the IWN.¹⁹

9. What do I do if my pay periods are not the same frequency as the support order?

Michigan law requires that all support orders be stated in monthly amounts payable on the first of each month in advance.²⁰ To assist employers that pay employees more frequently than once a month, the IWN provides withholding amounts for monthly, semi-monthly, bi-weekly and weekly payroll periods. These amounts are calculated based on conversion formulas provided in the Michigan Child Support Formula.²¹ If your pay periods are more frequent than monthly, refer to the amount indicated on the IWN that corresponds to your payroll period.

10. Aside from the withholding amount listed on the IWN, is there any other limit to the amount that can be withheld? If so, how do I figure that amount?

Yes, there is a limit to the amount that can be withheld for employees. However, Michigan law has no limit for non-employee/non-earning income.

The total amount allowed to be withheld from any employee's earnings is limited according to the law of the state of the employee's principal place of employment. Some states follow the federal Consumer Credit Protection Act (CCPA)²² limits, while other states have limits that are lower than the CCPA limits. The CCPA does not provide a withholding limit for non-employees such as self-employed individuals or independent contractors who receive income that does not meet the CCPA definition of "earnings."

In Michigan, the maximum amount that can be withheld for all IWNs and NMSNs (i.e., support *and* the employee's contribution for the child(ren)'s health coverage that you are required to withhold as a result of a NMSN)²³ is 50 percent of the employee's disposable earnings. This is true even if the employee has multiple withholding orders/notices (i.e., multiple IWNs and/or NMSNs).²⁴ Refer to Question 11 for a definition of "disposable earnings."

¹⁶ MCL 552.611

¹⁷ MCL 600.4012

¹⁸ Ref: Questions 10-12 for more information.

¹⁹ 26 United States Code (USC) 6334

²⁰ MCL 552.605c

²¹ MCL 552.605c; Ref: [Michigan Child Support Formula](#).

²² The federal CCPA identifies the maximum total withholding amount allowed to be withheld from any employee's earnings. The limits provided in the CCPA for support (IWN) and health coverage withholding (NMSN) are from 50 to 65 percent of the employee's disposable earnings.

²³ Ref: Section E for information about NMSNs.

²⁴ MCL 552.608, MCL 552.609, MCL 552.611a, and MCL 552.626b

To correctly calculate the maximum allowed withholding, follow these steps:²⁵

- a. Determine the disposable earnings for the pay period and multiply that by 50 percent to determine the maximum amount allowed to be withheld.
- b. Compare the maximum amount from Step a to the total IWN withholding amount *and* the employee's contribution for the child(ren)'s health coverage, and send an amount as follows:
 - 1) If the maximum amount is **more** than the IWN withholding amount plus the employee's contribution for the child(ren)'s health coverage, send the amount specified on the IWN to the MiSDU. Also, pay the required withholding for the child(ren)'s health coverage to the health plan administrator; or
 - 2) If the maximum amount is **less** than the total amount specified on the IWN, send the entire maximum amount to the MiSDU and do not withhold the employee's contribution for the child(ren)'s health coverage required by the NMSN; or
 - 3) If the maximum amount is **more** than the IWN withholding amount but **less** than the amount specified on the IWN plus the employee's contribution for the child(ren)'s health coverage, send the IWN withholding amount to the MiSDU. The employee's contribution for the child(ren)'s health coverage may only be withheld and sent to the health plan administrator if the entire employee contribution for the child(ren)'s health coverage can be withheld.

Note: The NMSN may include a court-ordered limit for "reasonable cost" stated as a specific dollar amount or a percentage of gross income. While the withholding amount for the IWN plus the employee's contribution for the child(ren)'s health coverage may be within the overall 50 percent limit, the court-ordered "reasonable cost" limit may prevent enrollment of the child(ren) in health coverage or withholding the employee's contribution for the child(ren)'s health coverage.

If you are unsure of the correct amount to send, contact the issuer of the IWN.

11. What are disposable earnings?

"Disposable earnings" means "that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld."²⁶ These mandatory deductions include federal, state and local income taxes; Social Security taxes; unemployment insurance; workers' compensation insurance; state employee retirement deductions; and other deductions determined by federal and state law. Mandatory deductions do not include voluntary payroll deductions such as contributions for 401(k) plans, flexible spending accounts, charitable organizations, etc.

²⁵ These steps apply only to situations where all the notices (i.e., IWNs and NMSNs) received are from a Michigan FOC or several Michigan FOC offices. Ref: Question 12 for calculation directions if there are multiple notices and at least one notice is from a state other than Michigan.

²⁶ 15 USC 1672

Stated as a general formula:

“Disposable earnings” equals gross “earnings” minus mandatory deductions.

If the employee has voluntarily elected to have a tax-deferred deduction taken, such as an employee contribution to a 401(k), you must first subtract the tax-deferred amount for the purpose of calculating the amount of taxes to be withheld. However, the tax-deferred amount must be added back into the earnings before calculating the maximum amount of child support to be deducted, because child support must be satisfied before any deferment.

12. How should I calculate the amount to be withheld if the employee has more than one IWN and/or NMSN?

If you have multiple IWNs and/or NMSNs for an employee who works in Michigan, you must comply with all of the IWNs and NMSNs. However, the total amount withheld from the employee's income must not exceed 50 percent²⁷ of his/her disposable earnings.²⁸

To calculate the amount to be withheld when the employee has more than one income withholding, do the following:

- a. Determine the disposable earnings for the pay period and multiply that by 50 percent to determine the maximum amount allowed to be withheld. If the disposable earnings amount is enough to cover all orders and is within the limit, withhold the full amount for all orders.
- b. If the disposable earnings amount is not enough to cover all orders, withhold as follows depending on whether all income withholding orders were issued by Michigan issuer:
 - 1) If all orders to withhold income are from Michigan and the total amount to withhold for current and past-due support exceeds 50 percent of the employee's disposable earnings, withhold an amount equal to 50 percent of his/her disposable earnings. Send this amount to the MiSDU.
 - 2) If one or more of the orders to withhold income are from another state, give priority to amounts designated in each notice as current support followed by past-due support (arrearages).²⁹ Allocate/prorate the amounts as follows:
 - a) Prorate the current withholding amounts across all income withholdings (see the “Current Support” discussion further below); and
 - b) Prorate the past-due support/arrearages withholding amounts across all income withholdings (see the “Past-Due Support/Arrearages” discussion further below).

²⁷ If the employee's principal place of employment is outside of Michigan, different withholding limitations may apply.

²⁸ MCL 552.608, MCL 552.611a, MCL 552.626b, and MCL 552.1501a

²⁹ “Arrearage” or “arrearages” are past-due, unpaid obligations (e.g., support) owed by the parent. If the parent has arrearages, (s)he is said to be “in arrears.”

Note: Depending on your payroll period and how each notice lists the amounts for each withholding category (e.g., current child support, past-due child support), you might need to convert a specific withholding category amount to a monthly or non-monthly amount for the purpose of prioritizing and allocating.

- To determine a weekly amount, divide a monthly amount by 4.35 (multiply a weekly amount by 4.35 for the corresponding monthly amount); or
 - To determine a biweekly amount, divide a monthly amount by 2.175 (multiply a biweekly amount by 2.175 for the corresponding monthly amount).
- c. Regardless of whether all orders are issued by Michigan, if the total amounts withheld or allocated for current and past-due support do not exceed 50 percent of the employee's disposable earnings or the amount or percentage limitation specified on the NMSN, allocate the remaining disposable earnings to the employee's contribution for health coverage for the child(ren) specified in the NMSN. If the employee does not have enough remaining disposable earnings to withhold for the employee's contribution for the child(ren)'s health coverage, or if the employee's contribution for the child(ren)'s health coverage exceeds the amount or percentage specified on the NMSN, then the limit has been met and you cannot withhold the employee's contribution for health coverage. Employers are not required to pay the employee's contribution for health coverage.

Current Support³⁰

If the disposable earnings amount is **not** sufficient to cover all of the current support due under multiple notices from multiple states, you must prorate the current support across all IWNs:

- **Add** the current support withholding amounts for all IWNs, calculating the total current support withholding amount due;
- Divide the current support withholding amount due in each order by the total current support withholding amount due to determine each IWN's percentage share; and
- Multiply the percentage share for each IWN by the amount of disposable earnings allowed to be withheld under the 50 percent limit.

³⁰ "Current support" includes the total of all amounts listed on the IWN as "current child support," "current cash medical support" and "spousal support."

Example:

The employee has three IWNs:

IWN 1 (issued by Michigan) = \$300 current support, \$200 past-due support (arrears), per month.

IWN 2 (issued by State X) = \$150 current support, \$0 arrears, per month.³¹

IWN 3 (issued by State Y) = \$200 current support, \$150 arrears, per month.

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

The employee makes \$1,000 in monthly disposable earnings. Therefore, the maximum amount of the employee's disposable earnings allowed to be withheld is \$500 (\$1,000 x 50%). Because the total amount on the IWNs for support and arrears (\$650 + \$350 = \$1,000) is higher than the withholding amount allowed under the 50 percent limit (\$1,000 > \$500), the employer is held to the 50 percent limitation.

The total amount of current support is \$650 and the employer is able to deduct only \$500. So, the employer must prorate (i.e., determine the percentage of) current support that each IWN has:

IWN 1 = \$300 / \$650 = 46%

IWN 2 = \$150 / \$650 = 23%

IWN 3 = \$200 / \$650 = 31%

The employer must then multiply each IWN's percentage of current support by the amount of disposable earnings available within the limit to determine how much each IWN will receive:

IWN 1 = 46% x \$500 = \$230

IWN 2 = 23% x \$500 = \$115

IWN 3 = 31% x \$500 = \$155

The employer will send \$230 to the MiSDU, \$115 to State X, and \$155 to State Y.

Past-Due Support/Arrears³²

If the disposable earnings amount remaining within the allowable limit after all current support is paid is **not** sufficient to cover all arrears withholdings for multiple notices from multiple states, prorate among the IWNs in the same fashion as for current support, but use the arrears withholding amounts instead of the current withholding amounts.

³¹ State X and State Y are states other than Michigan.

³² "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."

13. When do I need to send the payment to the MiSDU?

If the employee's principal place of employment is in Michigan, you must mail payments to the address on the IWN or submit them electronically within three working days after the date of withholding. Otherwise, follow the law of the state of the employee's principal place of employment.

14. What information do I need to submit with my employee support payments to the MiSDU?

You must include the following information:

- Employee name;
- Employee Social Security number (format: 999-99-9999);
- Michigan 10-digit docket/court order number, which is noted as the **Order ID (Order Identifier)** on the IWN (format: 9999999999);
- Michigan nine-digit case number, which is noted as the **CSE Agency Case ID (CSE Agency Case Identifier)** and **Remittance ID** on the IWN (format: 999999999);
- Amount withheld;
- Date withheld; and
- Employer FEIN (format: 99-9999999).

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

15. Can I combine all the withholdings in one pay period for all employees and send one payment?

Yes. You can combine all withholdings going to the MiSDU into one payment. You may submit payments by check, cashier's check, money order, credit card/debit card, Electronic Funds Transfer (EFT), Automated Clearing House or direct deposit. The withholdings must include identifying information for each employee to ensure that payments are not delayed.

16. What should I do if, after I have received an IWN, an employee tells me that the amount to be deducted is wrong, or wants to make voluntary payments for child support instead of through income withholding?

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

17. If I have withheld the required amount for the month and my employee receives additional income such as a bonus or a commission check, do I have to deduct from this too?

Employee lump-sum income, such as a bonus or commission, may qualify for child support withholding. Lump-sum reporting contact information is included on Michigan IVNs issued by the FOC. If the FOC issued the IVN and you are about to pay an employee a lump sum, contact OCS Central Operations (preferably one or two weeks before the pay date) by phone at 866-540-0008 (when prompted, say “Employer Bonus”), by email at: MDHHS-OCS-EmployerBonus@michigan.gov, or by fax at 517-335-3030. If the FOC is not the issuer of the IVN, contact the issuer.

Additional instructions for employers are included in the Instructions for Withholding and Remitting Support From Employee/Obligor Lump-Sum Payments (DHS-1425). The DHS-1425 is available online: www.mfia.state.mi.us/ChildSupport/policy/Documents/DHS-1425.doc.

After you contact OCS Central Operations, you will receive a report that will identify the employees with income withholding orders, the arrearage amount for which the lump-sum income is subject to withholding and the percentage of a bonus you must withhold (identified as “chargeable bonus %” on the report). An example of the report is below.

Sample Lump-Sum Report

Employee Name	SSN	IV-D Case	Docket #	Withhold 50% of the NET not to exceed this amount	Chargeable Bonus %	County Code
Name 1	***_**_****	*****	*****	\$100.00	0	82
Name 2	***_**_****	*****	*****	\$500.00	25	82

You can also electronically report lump-sum income to Michigan via OCSE’s E-IWO Portal.

18. Are independent contractors (i.e., those receiving 1099 income) subject to income withholding?

Yes, under the definitions of “income” and “source of income” in Michigan law, money paid to an independent contractor is subject to income withholding.³³

19. How do I know when to stop the withholding?

The withholding will remain in effect until the FOC notifies you to stop withholding.³⁴ You must not stop the withholding based on an employee’s request or because the employee’s or your calculations indicate the arrears are paid. Failure to withhold may result in your

³³ MCL 552.602(n) and MCL 552.602(cc)

³⁴ MCL 552.611

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 promptly notify the FOC office.³⁵ If the employee returns to work, you must reinstate the withholding unless otherwise notified by the issuer of the IWN.³⁶

20. What should I do if the employee tells me that his/her parental rights were terminated and (s)he asks me to stop the income withholding?

The termination of a parent's rights does not terminate the parent's obligation to support his/her child unless a court specifically modifies or terminates that support obligation.³⁷ The IWN will remain in effect, and you must continue to withhold income until you are notified by the FOC or another issuer to stop withholding.

E. National Medical Support Notice (NMSN)

Federal regulations require state child support enforcement agencies under Title IV, Part D of the Social Security Act to enforce the health coverage provision in a child support order.³⁸ Federal regulations also require these agencies to use the NMSN to enforce health coverage where appropriate.³⁹ The design and intent of the NMSN is to increase access to health coverage for children by using a standard form when issuing a medical support notice to employers. The FOC office issues a NMSN to an employer for each parent who is ordered to provide health coverage for his/her children.

21. What is a National Medical Support Notice (NMSN)?

A NMSN is a "qualified medical child support order" used to enforce the health coverage provision of a child support order. It requires the employer/health plan administrator to enroll the child(ren) listed on the NMSN in health coverage plans available to the named employee. Michigan FOC offices send employers both the federal National Medical Support Notice (FEN302) and a Michigan-specific addendum called the Addendum to the National Medical Support Notice (FEN302A).

22. How will I be informed that I must enroll the child(ren) in a health coverage plan and begin withholding for health coverage?

You will receive a NMSN. You must respond appropriately and take the necessary action as indicated on the NMSN and its Addendum.

23. Do I need to tell the employee when I receive a NMSN?

FOCs send an informational letter about the NMSN to the employee and the other parent/party on the support case at the same time that the NMSN is sent to the employer. This letter is called the Parent Health Care Coverage Explanation Sheet (FEN303). It informs the parents/parties that the NMSN has been sent to the employer. The employer may need to contact the employee, as indicated in the instructions of the NMSN. Also, the

³⁵ MCL 552.614(2)

³⁶ You are also required to report the employee as a new hire if (s)he is rehired. Ref: Section B, "New Hire Reporting," for more information.

³⁷ *In re Beck*, 488 Mich 6 (2010)

³⁸ 45 CFR 303.32(a)

³⁹ 45 CFR 303.32(c)(1)

plan administrator must provide the custodial parent/party on the support case with a description of the coverage available.⁴⁰ The NMSN includes a mailing address(es) so the plan administrator can send a notice of health coverage information to the custodial parent/party. However, you do not need to provide a copy of the NMSN to the employee.

The employer may also need to contact the FOC and/or the parent/party on the support case who is not responsible for maintaining health coverage if there are multiple choices or options available for health coverage. The FOC and/or the other parent/party must choose the most appropriate option. (Ref: Question 30)

24. How may I obtain a copy of the NMSN?

Blank copies of Michigan's version of the NMSN (FEN302) as well as Michigan's Addendum to the NMSN (FEN302A) can be viewed along with the *Michigan IV-D Child Support Manual* online at: www.mfia.state.mi.us/ChildSupport/policy/Documents/FEN302.pdf

25. How long after receipt does the NMSN take effect?

- a. Within 20 business days of the date of the NMSN, an employer must:
 - 1) Complete **Part A – Employer Response** of the NMSN;
 - 2) Return **Part A – Employer Response** to the issuing FOC; and
 - 3) If health coverage is available, forward **Part B – Plan Administrator Response** and the Addendum to the health plan administrator (the employer may also be the health plan administrator).
- b. Within 40 business days of the date of the NMSN, the plan administrator must:
 - 1) Enroll the child(ren) in the employer's health coverage plan(s) without regard to any enrollment period restrictions;
 - 2) Complete Part B and the *Addendum to the National Medical Support Notice* (or a comparable form). Return them to the employer and to the issuing FOC; and
 - 3) Forward a copy of the child(ren)'s health coverage to the custodial parent/party.
- c. Upon receiving Part B of the NMSN from the plan administrator, the employer must:
 - 1) Begin withholding; or
 - 2) If the amount exceeds the withholding limits, return Part A of the NMSN to the issuing FOC and notify the plan administrator to remove the dependents from health coverage immediately.⁴¹

⁴⁰ 29 USC 1169(a)(5)(C)(ii)(II)

⁴¹ Ref: Question 32 for more information about withholding limits.

26. 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 coverage available to children of employees who are eligible and qualify for such coverage pursuant to a medical child support order.⁴² You do not need to withhold for health coverage if you do not offer health coverage to your employees and their families.

27. What should I do if a union provides health coverage?

You should consider the union the plan administrator and forward Part B of the NMSN (and the *Addendum*) to the union within 20 days, unless you've checked Box 1, 2, 3, 4, or 5 in the "Employer Response" (Part A) of the NMSN. The union, like a plan administrator, must respond to the employer and the FOC within 40 days.

28. If I receive a NMSN, but the employee declares that (s)he is providing health coverage through other means, what should I do?

You must comply with the NMSN, continue to withhold employee contributions, and not disenroll the child(ren) until:

- You are notified by the issuing FOC that the NMSN is terminated; or
- You are provided with satisfactory written evidence that the order referred to in the NMSN is no longer in effect or the child(ren) are/will be enrolled in comparable coverage that is effective before disenrollment from your plan.

The employee may contact the issuing FOC to contest the NMSN as a mistake of fact.

29. What happens if the employee does not want health coverage for himself/herself, but is ordered to put the child(ren) on the health coverage plan the employer offers?

The child(ren) subject to the order must be enrolled in a health coverage plan that is available to the employee even if the employee is not enrolled. If it is possible to enroll the child(ren) in the plan without the employee, do so. 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.

30. What happens if there are multiple health plans available to the employee and his/her dependents? Which plan should the administrator enroll them in?

Plan selection criteria are as follows:

- Employee already enrolled – If the employee is already enrolled in a plan that offers dependent coverage, the administrator will select that plan.
- Employee not already enrolled– If the employee is not already enrolled in a plan and there is only one plan that offers dependent coverage, the administrator will select that plan. If more than one plan offers dependent coverage, the plan administrator must

⁴² 29 USC 1169(a)

enroll the dependents and the employee (if necessary) in the plan selected by the issuing FOC. The issuing FOC will consult with the other parent/party to select a plan. The plan administrator can contact the issuing agency to determine what plan should be selected. If the issuing FOC does not respond within 20 days, the plan administrator will enroll the dependents in the default plan.

31. Will the health coverage provider allow me to enroll the child(ren) outside an open enrollment period?

The NMSN constitutes a “significant life change” and a qualifying event for enrollment. The health coverage provider must accept enrollment of the child(ren) at any time without regard to any enrollment period restrictions.⁴³ Refer health coverage provider questions or disputes regarding enrollment to the FOC office that issued the NMSN.

32. How much can I withhold for health coverage?

Withholding limitations apply if the employee’s IWN amount(s) and the employee’s contribution for the child(ren)’s health coverage exceed 50 percent of the employee’s disposable earnings.⁴⁴

The NMSN will specify a reasonable cost percentage or dollar amount that also limits the amount you can withhold for health coverage. If the NMSN does not, employers should contact the FOC for the reasonable cost. The reasonable cost percentage or amount is only applicable to the cost of adding the child(ren) to existing coverage or the difference in cost between self-only and family coverage.

Example:

The employee has:

- Gross earnings of \$2,500 biweekly;
- Disposable earnings of \$1,750 biweekly;
- A NMSN with a reasonable cost of 5 percent of gross income;
- Health coverage that is available at a biweekly cost of \$175 for family coverage or \$65 for self-only coverage; and
- An IWN with a total biweekly withholding of \$600 (\$500 in current support and \$100 in past-due support/arrears);

In this scenario, the difference between self-only and family coverage is \$110 (\$175 - \$65), which does not exceed the reasonable cost limit of \$125 (\$2,500 x 0.05). The total biweekly withholding amount for the IWN and NMSN is \$710 (\$600 + \$110) and is less than the 50 percent of disposable income limit, which is \$875 (\$1,750 x 0.5).

If employees disagree with the enrollment that is directed through the NMSN, they must contact their FOC office.

⁴³ MCL 552.626a, 45 CFR 155.420(b)(2)(v), and 45 CFR 155.420(d)(2)(i)

⁴⁴ Ref: Questions 10-12 for more information about withholding limitations.

33. I am concerned that the NMSN process will add administrative costs to my business. May I charge a fee to the employee?

If the employee's principal place of employment is in Michigan, you may not charge an administrative fee. 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.⁴⁵ Otherwise, follow the law of the state of the employee's principal place of employment.

34. When will health coverage withholding stop?

The NMSN will remain in effect until you are notified by the issuing FOC or you receive a notice regarding any changes. However, even if the FOC sends a *Notice Regarding Health Care Coverage* (FEN308) that informs you the NMSN is no longer effective, the employee may still have a legal obligation to provide health coverage or may wish to voluntarily provide or continue to provide health coverage for the minor child(ren). Please check with the employee before terminating health coverage.

35. Is it my responsibility to notify the FOC office if the employee's contribution to health coverage increases?

No, it is the employee's responsibility to inform the FOC office of any change in premiums and possibly request that his/her support order be modified. However, when coverage terminates, or if you can no longer withhold the increased employee contribution for health coverage due to withholding limits, it is your responsibility to notify the FOC office that issued the NMSN. Also, consider notifying the employee if you cannot withhold per the withholding limits; the employee is responsible for informing the FOC of a change in circumstance.

36. Our company does not offer group health coverage. Do we have to purchase group health coverage to comply with the NMSN?

No. If the employee belongs to a class of employees for which you do not offer this coverage, you are not obligated to provide it for this purpose.

37. What if the child is covered by Medicaid, MiChild, or another publicly provided plan and I receive a NMSN?

If the employee disagrees with the NMSN or disputes the NMSN with you, refer the employee to the FOC. You must still comply with the NMSN until the FOC provides further direction.

F. Employment Terminations

38. What do I do when the employee leaves my employ?

The NMSN and IWN remain in effect and are binding upon the employer until further notice from the court or the issuer.

⁴⁵ MCL 408.477(1)

You must promptly notify the FOC or the issuer of the IWN or NMSN in writing when the employee's employment/income terminates.⁴⁶ You must provide the FOC or the issuer of the IWN or NMSN with the employee's last-known address as well as the name and address of the employee's new employer, if known.⁴⁷ The IWN and NMSN both include a section for you to provide this information and additional information about the employee and employer.

You may electronically report employee terminations to states via the federal e-IWO portal or the Employer Services web application on the federal Child Support Portal. More information about the Child Support Portal is available at:

www.acf.hhs.gov/programs/css/resource/employer-services-web-application.

The IWN and NMSN will remain in effect and be binding upon the employer until further notice from the court or the issuer. Therefore, you are required to keep a record of the IWN and NMSN and enforce them if the employee who left employment with you returns to work for you. If the employee hasn't worked for you in the past 60 days, report the employee as a new hire and begin withholding. You may contact the FOC to confirm the current status of the IWN or NMSN.

G. Acronyms Used in This Document

- CCPA – Consumer Credit Protection Act
- CFR – Code of Federal Regulations
- EFT – Electronic Funds Transfer
- e-IWO – Electronic Income Withholding Order
- FEIN – Federal Employer Identification Number
- FOC – Friend of the Court (office in a Michigan county)
- IVR – Interactive Voice Response (telephone system)
- IWN – Income withholding notice
- IWO – Income withholding order
- MCL – Michigan Compiled Law
- MDHHS – Michigan Department of Health and Human Services
- MiSDU – Michigan State Disbursement Unit
- NMSN – National Medical Support Notice
- OCS – Office of Child Support (Michigan)
- OCSE – Office of Child Support Enforcement (federal)
- SSN – Social Security number
- USC – United States Code



The Michigan Department of Health and Human Services (MDHHS) does not discriminate against any individual or group because of race, religion, age, national origin, color, height, weight, marital status, genetic information, sex, sexual orientation, gender identity or expression, political beliefs or disability.

⁴⁶ MCL 552.614(1)

⁴⁷ MCL 552.614(2)