



# INTERNAL MANAGEMENT POLICY & PROCEDURE


**Applicability:** ☒ Adult Operation Only ☐ JUVENILE Operations Only ☐ DEPARTMENT-WIDE

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## FISCAL: Processing of Resident Income Withholding Orders

Original Date Issued: 12-30-14 Replaces IMPP Issued: 12-30-14 **CURRENT EFFECTIVE DATE: 09-27-23**

Approved By: , Secretary Next Scheduled Review: 12/2025

### POLICY

An Income Withholding Order issued by any court of competent jurisdiction which seeks to withhold income to satisfy an order for support, or to defray an arrearage in support, shall be processed by facility business office personnel in accordance with this policy and applicable law, and shall be answered within ten (10) business days from the date the Income Withholding Order is received.

### DEFINITIONS

Arrearage: The total amount of unpaid support which is due and unpaid under an order for support.

Business Day: A day on which Kansas state governmental offices are open for regular business.

Income: Any form of periodic payment to an individual, regardless of source including, but not limited to, wages, salary, trust, royalty, commission, bonus, compensation as an independent contractor, annuity and retirement benefits, workers compensation and any other periodic payments made by any person, private entity or federal, state or local government or any agency or instrumentality thereof. "Income" does not include: (1) Any amounts required by law to be withheld, other than creditor claims, including but not limited to federal and state taxes, social security tax and other retirement and disability contributions; (2) any amounts exempted by federal law; (3) public assistance payments; and (4) unemployment insurance benefits except to the extent otherwise provided by law. Any other state or local laws which limit or exempt income or the amount or percentage of income that can be withheld shall not apply. Workers' compensation shall be considered income only for the purposes of child support and not for the purposes of maintenance.

Income Withholding Act: The Kansas statutory scheme set forth at K.S.A. 23-3101 through 23-3118, and 39-7, 135.

Income Withholding Order: An order or notice, regardless of how denominated, issued under the Income Withholding Act which requires a payor to withhold income to satisfy an order for support or to defray an arrearage.

Obligee: Any person or entity to whom a duty of support is owed.

Obligor: Any person who owes a duty to make payments under an order for support.

Order for Support: Any order of a court, or of an administrative agency authorized by law to issue such an order, which provides for payment of funds for the support of a child, or for maintenance of a spouse, or ex-spouse and includes an order which provides for modification or resumption of a previously existing order.

Payor: Any person or entity owing income to an obligor or any self-employed obligor.

## **PROCEDURES**

### **I. Service of Income Withholding Orders on KDOC Correctional Facilities**

- A. All service of Income Withholding Orders on KDOC correctional facilities, whether personally served or served by certified, first class mail or email, shall be directed to the business manager of the banking section who shall receive service of the Income Withholding Order.
  - 1. If a resident is employed by a private industry or work release, the Income Withholding Order shall be sent directly to the employer by the agency serving the order, as Centralized Inmate Banking cannot process IWO's for residents working private industry.
- B. Upon receipt of service of the Income Withholding Order, the business manager or designee shall indicate the service of the Income Withholding Order in a log book.
  - 1. The information logged concerning the Income Withholding Order shall include, at a minimum:
    - a. The name and number of the resident who is the subject of the Income Withholding Order;
    - b. If working in a Private Industry, Centralized Inmate Banking shall provide this information to the child support agency.
  - 2. Income Withholding Orders for child support shall be processed by Centralized Inmate Banking on the Monday following incentive pay day.
- C. Under Kansas law, an Income Withholding Order, once served, is binding on the Payor and requires continued withholding of income from each periodic payment of income until further order of the court or agency that issued the Income Withholding Order.
- D. Under Kansas law, an Income Withholding Order shall have priority over any other legal process under state law against the same income, and withholding of income under an Income Withholding Order shall be made without regard to any prior or subsequent garnishments, attachments, wage assignments or other claims of creditors.

### **II. Processing of Income Withholding Order from a Kansas Court by KDOC Correctional Facilities**

- A. With regard to Income Withholding Orders issued by a Kansas court, if it is determined after the Income Withholding Order is logged that the resident obligor that is the subject of the Income Withholding Order is not incarcerated in a correctional facility serviced by the receiving banking section, the business manager or designee shall execute an answer to the Income Withholding Order.
- B. With regard to Income Withholding Orders issued by a Kansas court, if it is determined after the Income Withholding Order is logged that the resident obligor that is the subject of the Income Withholding Order is incarcerated in a correctional facility serviced by the receiving banking section, a further determination shall be made by the business manager or designee as to whether the resident obligor receives "income" as defined above. For purposes of Income Withholding Orders, the "reward" pay set forth in K.S.A. 75-5211(a), also known as stipend or "incentive pay", shall be considered "income." If it is determined that the resident obligor **does not** receive "income", the business manager or designee shall execute an answer to the Income Withholding Order.
- C. With regard to Income Withholding Orders issued by a Kansas court, if it is determined after the Income Withholding Order is logged that the resident obligor who is the subject of the Income Withholding Order is incarcerated in a correctional facility serviced by the receiving banking section, a further determination shall be made by the business manager or designee as to whether the resident obligor receives "income" as defined above. For purposes of Income Withholding Orders, the "reward" pay set forth in K.S.A. 75-5211(a), also known as stipend or "incentive pay",

shall be considered "income." If it is determined that the resident obligor **does** receive "income", the business manager or designee shall execute an answer to the Income Withholding Order.

**III. Service of Income Withholding Orders on KDOC Central Office**

- A. In the event an Income Withholding Order is served on KDOC at its Central Office, the Fiscal Division in Central Office shall determine whether the obligor identified in the Income Withholding Order is in KDOC custody. If so, the Fiscal Division shall promptly forward the Income Withholding Order to the KDOC banking section and that banking section will then process the Income Withholding Order pursuant to this policy.

**IV. Notification of Resident Obligor of Income Withholding Order**

- A. In the event a trust fund account of a resident obligor is encumbered as being subject to an Income Withholding Order, the resident obligor shall be notified of the answer to the Income Withholding Order.
- B. A copy of the Income Withholding Order shall be retained in the resident obligor's central file and a copy shall be delivered to the resident obligor through the Unit Team.

**V. Transfer or Release of a Resident Obligor Under Income Withholding Order**

- A. In the event that a resident obligor is transferred, and his/her trust fund account shall be serviced by another banking section while all or a portion of his/her trust account is encumbered due to an Income Withholding Order, the business manager or designee of the receiving banking section shall be notified.
  - 1. Upon forwarding the trust account funds of such resident obligors, the business manager or designee of the sending banking section shall ensure that copies of the Income Withholding Order(s) are included with any funds so transferred.
    - a. The business manager or designee of the sending facility shall contact the receiving banking section to verify the documents were received.
  - 2. The business manager or designee of the sending banking section shall also notify the court or agency that issued the Income Withholding Order of the resident obligor's transfer and the new location of the encumbered funds.
- B. In the event that a resident obligor is released while all or a portion of his/her trust fund account is encumbered due to an Income Withholding Order, the amount of the resident obligor's account subject to the Income Withholding Order shall be retained by the banking section in an encumbered account.
  - 1. At the time of release, the resident obligor shall be given all unencumbered funds from his/her trust fund account.
  - 2. The amount subject to the Income Withholding Order shall be retained by the banking section as an encumbered balance within the facility's trust fund.
    - a. The business manager or designee shall notify the court or agency that issued the Income Withholding Order that the resident obligor has been released from custody and request a speedy disposition as to the final disbursement of the encumbered funds.

**VI. Payment of the Income Withholding Order**

- A. The business manager or designee shall expend from the resident obligor's account the amount required by the Income Withholding Order to pay and mail the same to the entity identified in the Income Withholding Order to receive such funds.

- B. A copy of the Income Withholding Order shall be retained in the resident obligor's central file and a copy sent to the resident obligor through the unit team.

**VII. This IMPP must serve as final policy in all departmental facilities, and no General Orders shall be developed or implemented on this subject.**

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and residents and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or residents, or an independent duty owed by the Department of Corrections to employees, residents, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

**REPORTS REQUIRED**

None.

**REFERENCES**

K.S.A. 23-3101 through 23-3118; 38-2279; 39-7,135; 75-5211(a)

**HISTORY**

12-30-14 Original  
09-27-23 Revision 1

**ATTACHMENTS**

None.