

**RULES
OF
THE TENNESSEE DEPARTMENT OF HUMAN SERVICES
CHILD SUPPORT DIVISION**

**CHAPTER 1240-02-02
FORMS FOR WITHHOLDING OF INCOME FOR CHILD SUPPORT**

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1240-02-02-.01 PURPOSE AND SCOPE OF RULES.

- (1) The forms contained in this Chapter relating to the issuance of Orders for the withholding (assignment) of income of obligors of support shall be mandatory forms, pursuant to the provisions of T.C.A. §36-5-501(o), for use by Clerks of all of the various courts of Tennessee which establish and enforce child support orders, and by the Department of Human Services and its contractors.
- (2) These forms may be generated by computer by the Tennessee Child Support Enforcement System (TCSES), as well as individually by the Department, its contractors or by the Clerks of Tennessee courts by word processing or other suitable means, and minor changes in formatting of the information shall not affect the validity of these forms for the purposes intended. Provided, however, that the form titled Income Withholding for Support is a form required by the United States Department of Health and Human Services and shall remain substantially as it is drafted.
- (3) Forms reproduced for actual transmission to affected persons or entities may also contain highlighting or shading of areas of the forms for easier reading and emphasis of the contents or may contain state logos. Spaces for information indicated on the forms shall be utilized only to the extent applicable in the particular case.

Authority: T.C.A. §§4-5-202, 8-21-403, 36-5-116, 36-5-501, and 71-1-132(c); 42 U.S.C. §§651 et seq., 42 U.S.C. §§652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed December 17, 1985; effective January 14, 1986. Amendment filed October 17, 1986; effective January 27, 1987. Amendment filed August 25, 1989; effective October 13, 1989. Repeal and new rule filed December 7, 1994; effective February 20, 1995. Repeal and new rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.02 DEFINITIONS.

- (1) "Arrearage or "Arrears" means any occasion on which the full amount of support ordered for or on behalf of a minor child, or for a spouse or former spouse of the obligor with whom the

(Rule 1240-02-02-.02, continued)

child is living to the extent the spousal support would be included for the purposes of 42 U.S.C. § 654a(e)(4), is not paid by the due date for arrears as defined in T.C.A. § 36-5-101(f)(1) unless an income assignment is in effect and the payer of income is paying pursuant to subsection T.C.A. § 36-5-501(g), thus the date payment is made is affected by the operation of the income assignment. Arrears or arrearage may also be known as and referred to in these rules as “past-due” or “overdue” support.

- (2) “Business entity” means any private or public, profit or non-profit organization, association or institution of any kind which produces goods, products, or which performs services of any kind.
- (3) “Child support” or “support” for purposes of this chapter means a judgment, decree, or order, whether temporary, final or subject to modification issued by a court of competent jurisdiction or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the state which issued the order, and shall include the support of a parent with whom the child is living, and which order, judgment or decree provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest, penalties, income withholding, attorneys fees and other relief.
- (4) “Clerk” means, for purposes of this chapter, the official and his or her employees who maintain the court records for any court involving child or spousal support cases and who provide any related services in such cases.
- (5) “Delinquency” or “Delinquent” shall have the same meaning as the terms “arrearage” or “arrears”.
- (6) “Department” means the Tennessee Department of Human Services or its contractors who provide child support services in the courts of Tennessee to the Department as part of the Department’s responsibilities under Title IV-D of the Social Security Act.
- (7) “Employer” means the person, corporation or other business entity who or which engages a person to perform any services for compensation and shall include the federal government, a state government or any political subdivision thereof, and any institution or other business entity which has in its control funds due to be paid to a person who is obligated to pay child support.
- (8) “Income assignment” or “Income withholding” means the process by which the income due or to be paid or credited to an employee or other recipient of income is, for the purpose of paying child or spousal support, directed by an Income Withholding for Support Order to be withheld by the employer or other payer of income pursuant to an original or modified child or spousal support order of the court or an administrative order of the Department of Human Services, its contractor or other Title IV-D child support agency.
- (9) “Income Withholding for Support” refers to the form promulgated by the United States Department of Health and Human Services (HHS) which is the basic form required by HHS to be utilized for orders for withholding of the income of an employee or other recipient of income within Tennessee and for issuance to employers or other payers of income to obligors in other states. The form “Income Withholding for Support” is an Order for Income Assignment, and is also known as, and may be referred to in these rules as an “Order for Income Withholding”, “Order for Income Assignment” or “Income Assignment”, “Income Assignment Order” or “Assignment”, and shall have the same meaning unless otherwise clearly required by the context.

(Rule 1240-02-02-.02, continued)

- (10) "Obligee" means the person or agency to whom an obligation of child or spousal support is owed by an obligor.
- (11) "Obligor" means the person who owes a duty of support for a child to the child's parent or caretaker.
- (12) "Spousal support" means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support. Income assignments pursuant to this chapter shall apply to obligations for support of spouses as defined in this Paragraph and in Paragraph (3).
- (13) "TCSSES" means the Tennessee Child Support Enforcement System operated by the Department of Human Services containing data and functions for the recording of child or spousal support data and for collection, distribution, and disbursement of child and spousal support payments.

Authority: T.C.A. §§4-5-202, 36-5-501, 71-1-132(c), 42 U.S.C. §§651 et seq., 42 U.S.C. §§652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) and 666(a)(8) and (b), 45 C.F.R. §§303.6(c)(1), 303.7, and 303.100.

Administrative History: Original rule filed December 17, 1985; effective January 14, 1986. Amendment filed October 17, 1986; effective January 27, 1987. Amendment filed August 25, 1989; effective October 13, 1989. Repeal and new rule filed December 7, 1994; effective February 20, 1995. Repeal and new rule filed October 14, 1999; effective December 28, 1999. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.03 ISSUANCE OF INCOME WITHHOLDING FOR SUPPORT.

- (1) Criteria for Issuance.
 - (a) Income Withholding for Support shall be ordered by the court for any order of child support issued, modified, or enforced on or after July 1, 1994 unless the provisions of T.C.A. § 36-5-501(a)(2) or § 36-5-116(a)(1) apply.
 - (b) The Income Withholding for Support Order shall be issued by the Clerk of the Court, or by the Department or its contractors in Title IV-D cases, regardless of whether support payments are in arrears on the date of the order and shall include an amount sufficient to satisfy an accumulated arrearage, if any, within a reasonable time.
 - (c) When any Income Withholding for Support Order is issued, for purposes of calculating any arrears, it shall be rebuttably presumed that one-half of the amount payable for current support shall be a reasonable amount which should be ordered for making a reduction of an arrearage.
 - (d) The Income Withholding for Support Order may include an amount to pay medical expenses which the obligor is obligated or ordered to pay.
 - (e) The amount withheld shall not exceed fifty percent (50%) of the obligor's income after FICA, withholding taxes, and a health insurance premium which covers the child are deducted.
 - (f) The Income Withholding shall include an amount necessary to cover the fee due the Court Clerk or the Department, as appropriate. Court Clerks or the Department may issue an Income Withholding Order to recover court costs or fees which the obligor fails to pay.

(Rule 1240-02-02-.03, continued)

- (2) In all cases in which the court has ordered immediate income assignment, the Clerk of the Court, or the Department of Human Services or its contractor in Title IV-D support cases, shall within two (2) business days issue an Income Withholding Order as described in 1240-02-02-.04 to an employer once the employer of a support obligor is identified.
- (3) No order of the court shall be necessary to issue an Income Withholding Order in circumstances where no previous Income Withholding Order has issued or in circumstances in which the obligor of child support was not subject to income withholding pursuant to the provisions of T.C.A. § 36-5-501(a)(2), and the records of the court or the Department show the obligor to be in arrears as defined in T.C.A. § 36-5-101(f)(1) and T.C.A. § 36-5-501(b)(1)(G).
- (4) If the support payments were previously ordered paid directly to the custodial parent, guardian or other caretaker of the child, and the obligor is in arrears as defined in T.C.A. § 36-5-101(f)(1) and T.C.A. § 36-5-501(b)(1)(G), the custodial parent, guardian or custodian may complete an Affidavit of Arrearage pursuant to 1240-02-02-.11 to request the issuance of an Income Withholding for Support Order by, respectively, the Clerk or the Department of Human Services. No order of the court shall be necessary for the issuance of an Income Withholding for Support Order pursuant to this paragraph.
- (5) Income Withholding for Support Order issued by the Clerk in Non-Title IV-D Cases.
 - (a) When an Income Withholding for Support Order is issued by the Clerk of the Court in non-Title IV-D cases, and if the obligor requests a hearing pursuant to T.C.A. § 36-5-501(c)(1) regarding the withholding within fifteen (15) days of the date of the notice, or the date of personal service, if used, the Clerk shall promptly docket the case with the magistrate or court as provided by Tennessee Code Annotated, Title 36, Chapter 5, Part 4 and shall give notice to all parties, and shall take any other action as is necessary to ensure that the court meets the time frame in subparagraph (b).
 - (b) In all cases in which the obligor requests a hearing, the magistrate or court shall conduct a hearing and make a determination, and the Clerk shall notify the obligor and the employer of the decision of the court or magistrate within forty-five (45) days of the date of the issuance of the Income Withholding for Support.
- (6) Transmission of Orders and Notices.
 - (a) The notices and orders required to be issued pursuant to this Chapter shall be transmitted to any employer of an obligor and to obligors by any method chosen by the Court or the Department, including but not limited to: certified mail, return receipt requested; regular mail; electronic mail; facsimile transmission; or by personal service, and may be generated by computer or on paper. If a notice or order is returned or otherwise not deliverable, then service shall be had by any alternative method chosen by the Court or the Department, as described in the preceding sentence. Service by mail is complete upon mailing.
 - (b) In all cases in which an immediate assignment of income has not been previously ordered, or in which an obligor who is ordered to pay child support in which either an immediate income assignment was not required by the court due to good cause provisions as found by the court, or in which there is a written agreement by the parties for alternative payment arrangements, the Notice of Income Assignment required by this Chapter to be sent to an obligor shall be issued within two (2) business days of the date the Income Withholding for Support is sent to the employer. The notice must be sent to the address of the obligor, if known, or to the obligor at the address of the employer of the obligor if the obligor's employer's address is unknown.

(Rule 1240-02-02-.03, continued)

- (c) The notices and orders required by this chapter need not be entered in the minutes of the court, but shall be in the records of the case in the court when an Income Withholding for Support Order is issued.
 - (d) Before taking action against an employer or other payer of income for failure to comply with this part, the Court or Department or its contractor shall ensure that service of the notice and order was made by certified mail, return receipt requested, or by personal service.
 - (e) Electronically reproduced signatures, if necessary, shall be effective to issue any orders or notices pursuant to this Chapter.
- (7) Proof of mailing the Income Withholding for Support Order and notices sent by the Department or its contractors shall be evidenced by a screen print from the TCSES computer system showing the date of mailing which shall be prima facie evidence of the date of mailing.
- (8) The local Title IV-D child support office will be responsible for defending all administrative appeals of any such orders in Title IV-D support cases and appeals filed pursuant to T.C.A. § 36-5-1003.

Authority: T.C.A. §§4-5-202, 36-5-501, 71-1-132(c), 42 U.S.C. §§651 et seq., 42 U.S.C. §§652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) and 666(a)(8) and (b), 45 C.F.R. §§303.6(c)(1), 303.7, and 303.100.

Administrative History: Original rule filed December 17, 1985; effective January 14, 1986. Amendment filed October 17, 1986; effective January 27, 1987. Amendment filed August 25, 1989; effective October 13, 1989. Repeal and new rule filed December 7, 1994; effective February 20, 1995. Repeal and new rule filed October 14, 1999; effective December 28, 1999. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.04 INCOME WITHHOLDING FOR SUPPORT.

- (1) Required Uses.
- (a) The form, number OMB-0970-0154, and instructions are available in Adobe PDF or Microsoft Word at: <http://www.acf.hhs.gov/programs/cse/forms/> "Income Withholding for Support". This form is required by the United States Department of Health and Human Services (HHS) to be used for income withholding. It shall be used in intrastate and interstate cases.
 - (b) It shall be used by the Clerk of the Court and by the Department of Human Services or its contractor for the purpose of directing an employer or other payer of income who or which has income payable to an obligor of support to withhold income from that obligor to comply with an initial order of the court.
 - (c) It shall be used by the Department or its contractors to indicate to the employer/payer of income that the Income Withholding for Support has been modified so that the newly ordered amounts will be substituted in place of the previously ordered amounts or to recover any fees or costs as allowed by law.
 - (d) It shall be used by the Court Clerk or the Department to denote the termination of an income assignment as indicated on the form.

(Rule 1240-02-02-.04, continued)

- (e) It shall be used to notify the entity withholding the income of the obligor of any other changes to the processing of the payments withheld including, but not limited to, a change in payment location, frequency of payment, or other processing data.
- (2) This form shall also be issued by the Clerk of the Court, or by the Department of Human Services or its contractor, in any cases where no income assignment had been previously ordered, but the Clerk's records, or those of the Department of Human Services, show that the obligor is in arrears. No Affidavit of Arrearage pursuant to 1240-02-02-.11 is required in these circumstances. No order of the court expressly authorizing the issuance of such Order shall be required.
- (3) This form shall also be issued in circumstances when an income assignment had not previously been issued, payments had been made directly to the obligee, and an obligee completes an Affidavit of Arrears pursuant to 1240-02-02-.11 stating that the obligor is in arrears for support, or in circumstances where an Assignment had not issued due to the provisions of T.C.A. § 36-5-501(a)(2), but the obligor is now in arrears, and where the obligee or the obligor is receiving services under Title IV-D. No order of the court expressly authorizing the issuance of such Order shall be required.
- (4) This form may also be used by the Clerk or the Department to recover fees or costs.
- (5) Child Support Payment Locations.
 - (a) In all cases in which the initial order requiring that child support be withheld by the employer or other payer of income, payment shall be made to the Department's centralized collection system for child support collections as required by T.C.A. § 36-5-116 and 42 U.S.A. § 654(a). In all non-IV-D cases in which the order requires the obligor to pay support through the Clerk of the Court or to the obligee, no income assignment is needed unless otherwise allowed or required by these rules or by state or federal law.
 - (b) All payments for child support being withheld by the employer or other payer of income pursuant to the Income Withholding for Support Order shall be made to the Department's centralized collection system for child support collections as required by T.C.A. § 36-5-116 and 42 U.S.C. § 654b(a).
- (6) The form referenced in subparagraph (1)(a), which has numbered spaces corresponding to the attached set of instructions for its use, has been issued by the Office of Child Support Enforcement (OCSE) of the United States Department of Health and Human Services.

Authority: T.C.A. §§4-5-202, 8-21-403, 36-5-116, 36-5-501, and 71-1-132(c); 42 U.S.C. §§651 et seq., 42 U.S.C. §§652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed December 17, 1985; effective January 14, 1986. Amendment filed October 17, 1986; effective January 27, 1987. Amendment filed August 25, 1989; effective October 13, 1989. Repeal and new rule filed December 7, 1994; effective February 20, 1995. Repeal and new rule filed October 14, 1999; effective December 28, 1999. Public necessity rule filed May 20, 2005; effective through November 1, 2005. Amendments filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.05 INFORMATION FOR WITHHOLDING BY TENNESSEE EMPLOYERS/PAYERS OF INCOME.

- (1) The Income Withholding for Support, also referred to as an Order for Income Assignment, Income Assignment, Income Assignment Order, or Assignment, must be implemented no later than fourteen (14) calendar days after the date noted at the top-right portion of that form, the date of personal service, or the other date of any other form of transmission of this notice.
- (2) The payments may be deducted from the employee's or income recipient's wages, or other income, either weekly, biweekly, semimonthly, or monthly to coincide with his/her pay periods or other periods for payment of income, but must be sent to the Department's centralized collection unit at the address shown on page 2 of that Order within seven (7) days of the date the employee or income recipient is paid along with the date the deduction was made.
- (3) "Employer, person, corporation or institution," who or which may be required to withhold income, includes the federal government, the State and any political subdivision thereof and any other individual or business entity which has in its control funds due to be paid to a person who is obligated to pay child support.
- (4) The amount withheld for support may not be in excess of fifty percent (50%) of the net wages of an employee or other income due an income recipient after the deduction of FICA, withholding taxes, and health insurance premiums which cover the child(ren).
- (5) This Order for Income Assignment is binding until further notice by the issuer. If the payor of income fails to withhold income in accordance with the provisions of this Order, the payor is liable for any amount up to the accumulated amount which should have been withheld from the income of the employee or income recipient. In addition, the payor may be subject to financial penalties pursuant to T.C.A. § 36-5-501(p). Compliance with this Order shall operate as a discharge of liability to the affected employee or other recipient of income as to that portion of the employee's or recipient's income affected by the Order.
- (6) T.C.A. § 36-5-501(i) provides that the employer, person, corporation, or institution that is ordered to comply with this order shall be subject to a fine for a Class C misdemeanor if the income assignment is used as a basis to refuse to employ a person or to discharge the employee or for any disciplinary action against the employee, or if the employer fails to withhold the amounts from the employee or fails to pay such amount to the Clerk of the Court or the Department of Human Services as may be directed by the Order.
- (7) Withholding of support in accordance with this notice shall have priority over any other legal process under state law against the same wages or other income for debts other than child support.
- (8) If the payor is unable to deduct the full amount specified in this order due to the fifty percent (50%) limitation, the payment should also specify, for each obligor, the individual's income after taxes, FICA, health insurance premiums deducted to cover the child(ren), and whether the payor has received prior Income Assignments which prevent the payor from fully complying with this order.
- (9) The payor may, at its discretion, charge the employee or other recipient of income an amount of up to five percent (5%), not to exceed five dollars (\$5) per month, for costs in complying with this order. This amount could vary upward depending on changes in the law at T.C.A. § 36-5-501(l).
- (10) If a payor is required to withhold support from more than one person, it is allowable to combine withheld amounts in a single payment to each appropriate court or other entity

(Rule 1240-02-02-.05, continued)

ordering the assignments; however, the payor must provide a listing indicating which portion of the single payment is attributable to each individual.

- (11) The date the support was deducted from the obligor's paycheck must be provided with each payment transmitted to the Department.
- (12) Pursuant to T.C.A. § 36-5-501(g), the payor is required to notify the Department when the employee terminates employment or if income payments are terminated and provide the Department the last known address of the employee/recipient of income and the name and address of his/her new employer, or new source of income, if known. The Income Assignment is binding upon successive employers fourteen (14) days after it is transmitted to them.
- (13) Priorities for Payments if More Than One Income Withholding for Support Is Received.

If the employer, person, corporation or institution or other payer of income receives more than one (1) Income Assignment against the employee/obligor, priority in deducting income shall be as follows:

- (a) First priority: To all orders for amounts due for current support due a child;
 - (b) Second priority: To all orders for amounts due for arrearages due a child;
 - (c) Third priority: To all orders for amounts due for current support due a spouse;
 - (d) Fourth priority: To all orders for amounts due for arrearages due a spouse; and,
 - (e) Fifth priority: To all statutory fees and court costs.
- (14) The payor must honor all withholdings to the extent the total amount withheld from wages does not exceed fifty percent (50%) of the employee's wages or a recipient's income after FICA, withholding taxes, and a health insurance premium which covers the child(ren) are deducted.
 - (15) Multiple Income Assignments for One Employee or Recipient of Income.

If the payor receives any Order for Income Assignment for current child support against the employee's income which would cause the deductions from any two (2) or more assignments for current child support to exceed fifty percent (50%) of the employee's income after FICA, withholding taxes, and a health insurance premium which covers the child(ren) are deducted, the following process shall be utilized:

- (a) Determine the total of all current child support ordered withheld by all Income Assignments received for the employee or recipient of income;
- (b) Then calculate the percentage that each current child support order represents of the total;
- (c) The available income will be allocated by the payor according to the percentage which each Income Assignment for current child support bears to the total of all Income Assignments involving this employee or recipient of income for current child support.
- (d) In the event all current child support obligations are met from the assignments and child support arrearages exist in more than one case and there is not sufficient income

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to pay all ordered child support arrearages, then the child support arrearages will be allocated by the payor on the same basis as in steps a - c.

- (16) The payor must provide for each case the following information: docket number, county, state, full ordered amount, the percentage that each current support order represents of the total ordered amounts from all income assignments ordered for this employee or recipient of income, and the date the amount is deducted from the employee's or recipient's income.
- (17) Example of a Proration for Multiple Income Assignment.
- (a) Assume an employee's net income after taxes, FICA, and a health insurance premium to cover the child(ren) is deducted is \$900. Therefore, the available income for use in the income assignment is only \$450 (50% maximum of the employee's net income).
- (b) If the employee is ordered to pay \$250.00 per month under support order A; \$200.00 per month for support order B; and \$150.00 per month for support order C; then the total of all income assignments is \$600.00. This total exceeds income available for income assignment [after deduction for taxes, FICA, and health insurance premiums which cover the child(ren)].
- (c) Pay the amount of the available income that each Income Assignment represents as a percentage of the total of all Income Assignments as follows:
1. Order A = $\$250/\600 , or 42%, x \$450 = \$189.00;
 2. Order B = $\$200/\600 , or 33%, x \$450 = \$148.50;
 3. Order C = $\$150/\600 , or 25%, x \$450 = \$112.50;
- (d) If the employee has sufficient available income to satisfy all current child support orders, but not all ordered child support arrearages, apply the same proration procedure to the child support arrearage payment as shown above.
- (18) Income assignments for child and/or spousal support have priority over a garnishment order issued by the Social Security Administration.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C. §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 20 C.F.R. § 422.435(e)(2), 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004).

Administrative History: Original rule filed December 17, 1985; effective January 14, 1986. Amendment filed October 17, 1986; effective January 27, 1987. Amendment filed August 25, 1989; effective October 13, 1989. Repeal and new rule filed December 7, 1994; effective February 20, 1995. Repeal and new rule filed October 14, 1999; effective December 28, 1999. Repeal and new rule filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.06 COURT CLERK'S NOTICE TO OBLIGOR OF ISSUANCE OF INCOME ASSIGNMENT DUE TO DELINQUENCY.

- (1) The Notice form in Paragraph (5) shall be used by the Clerk of Court for the purpose of providing notice to an obligor of support in Tennessee that an Income Withholding for Support has been issued which will direct the obligor's employer or payer of income to withhold income from an obligor of support to meet the child or spousal support obligation.
- (2) This Notice is used:

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- (a) When, pursuant to T.C.A. § 36-5-501(b)(1)(B) no Order for Income Assignment had been previously issued for any reason, and where the records of the Clerk or the Department of Human Services show the obligor is currently delinquent;
 - (b) When, pursuant to T.C.A. § 36-5-501(b)(1)(D) an Affidavit of Arrearage pursuant to 1240-02-02-.11 to support the issuance of an Order for Income Assignment is filed by the custodial parent, a guardian, or other caretaker to whom child support was previously directed alleging the obligor is now in arrears as defined by T.C.A. § 36-5-101(f)(1) and T.C.A. § 36-5-501(b)(1)(G); or
- (3) For an Order for Income Assignment, the Federal Income Withholding for Support (Order for Income Assignment) form referenced in 1240-02-02-.04(1)(a) will be attached to the notice to the obligor in Paragraph (5).
- (4) Appeals.
- (a) The obligor may contest this Notice of Income Assignment by filing a written request for a hearing with the Clerk's office shown on the Notice within fifteen (15) days of the mailing of the Notice. The grounds for contesting the Notice are that the income withholding is improper due to a mistake of fact, or the amount withheld is improper due to a mistake of fact.
 - (b) If the obligor contests the Notice of Income Assignment within the above time limit, a hearing will be promptly set and the magistrate or court shall conduct a hearing and make a determination. The employer will continue to withhold income unless a decision favorable to the obligor is rendered. The obligor and the employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued.
- (5) Form:

STATE OF TENNESSEE
NOTICE OF ISSUANCE OF INCOME ASSIGNMENT DUE TO DELINQUENCY

You are hereby notified pursuant to T.C.A. § 36-5-501(b)(2) that due to a delinquency in your child support payments in the amount of \$_____ as of the _____ day of _____, _____, your employer, or other person, corporation, or institution which is a payer of income has been directed, pursuant to T.C.A. § 36-5-501, to withhold income payable to you to satisfy your support obligation in the amounts and for the purposes shown in the attached Order/Notice to Withhold Income for Child Support (Order for Income Assignment).

Your total arrearage as of the _____ day of _____, _____, is \$ _____ plus twelve (12%) per annum simple interest.

You may contest this Notice of Income Assignment by filing a written request for a hearing with _____<Court Clerk's Office> at the address above within fifteen (15) days of the mailing of this notice as noted above. The grounds for contesting the Notice are that the income withholding is improper due to a mistake of fact, or the amount withheld is improper due to a mistake of fact.

If you contest this Notice of Income Assignment within the above time limit, a hearing will be promptly set and the magistrate or court shall conduct a hearing and make a determination. Your employer will continue to withhold income unless a decision favorable to you is rendered. You and your employer will

(Rule 1240-02-02-.06, continued)

be notified of the decision within forty-five (45) days of the date the Order/Notice to Withhold Income for Child Support (also called an Order for Income Assignment or Income Assignment) was issued.

It is your responsibility to keep the Court Clerk/and the local child support office informed of the name and address of your current employer, whether you have access to health insurance coverage, and if so, the health insurance policy information. You must also immediately notify the Court Clerk/and the local child support office of any changes in, or any additional employment, including the name and address of the new employer. Your new employer will be notified of the Order for Income Assignment.

An Order for Income Assignment shall be mandatory as long as current support or arrearages are still owed.

Clerks of court are authorized to issue an Order for Income Assignment to the employer or payer of income of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the Order for Income Assignment for child or spousal support.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this NOTICE OF ISSUANCE OF INCOME ASSIGNMENT DUE TO DELINQUENCY was served on the Respondent by delivering to him/her by <certified mail, return receipt requested; registered mail; electronic mail; facsimile; personal service> on this the _____ day of _____, _____.

<Court Clerk>

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C. §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.07 DEPARTMENT NOTICE TO OBLIGOR OF ISSUANCE OF INCOME ASSIGNMENT.

- (1) The Notice form in Paragraph (5) shall be used by the Department of Human Services or its contractors which establish or enforce support under Title IV-D of the Social Security Act for the purpose of providing notice to an obligor of support in Tennessee that an initial Income Withholding for Support (Order for Income Assignment) has been issued which will direct the obligor's employer or payer of income to withhold income from an obligor of support to meet the child or spousal support obligation.
- (2) For an initial Order for Income Assignment, the Federal Income Withholding for Support form referenced in 1240-02-02-.04(1)(a) will be attached to the Notice form in Paragraph (5).
- (3) The Department may combine the language in this form with language of the notices issued by the Department described in this Chapter to provide notice of various actions taken by the court or actions taken administratively by the Department, and the form may be modified and transmitted by the TCSES system to contain, as may be applicable, combinations of the language in any of those notices on one form.
- (4) Appeals.
 - (a) The obligor may contest this Order of Income Assignment by filing a written request for an administrative hearing with the local child support office shown on the Order within

(Rule 1240-02-02-.07, continued)

fifteen (15) days of the mailing date of the Order. The grounds for contesting the initial Order are the correct identity of the individual subject to the order, and a mistake of fact, or for an Order due to a delinquency, the amount of support not paid, the timeliness of the support paid, or the reasonableness of the amount ordered to be paid to reduce the arrears.

- (b) If the obligor contests the Order of Income Assignment within the above time limit, a hearing will be promptly set. The employer will continue to withhold income unless a decision favorable to the obligor is rendered. The obligor and the employer will be notified of the decision within forty-five (45) days of the date the Order of Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, the obligor has a right to further appeal the decision as described in the Department's administrative order following the decision.

(5) Form:

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ISSUANCE OF INCOME ASSIGNMENT

TO: _____ <OBLIGOR>
_____ <ADDRESS>

FROM: _____ <LOCAL CHILD SUPPORT OFFICE >
_____ <ADDRESS>
_____ <TELEPHONE NUMBER>

MAILING DATE OF NOTICE: _____

Pursuant to a court order, statutory requirements directing payment by Income Withholding for Support (Order for Income Assignment), or administrative actions by the Department of Human Services, you have been ordered to pay your child support obligation by means of an income assignment. This is to notify you that your employer, or other person, corporation, or institution which is a payer of income has been directed, pursuant to Tennessee Code Annotated, § 36-5-501, to withhold income payable to you to satisfy your support obligation in the amounts and for the purposes shown in the attached Income Withholding for Support (Order for Income Assignment).

You may contest this Order of Income Assignment by filing a written request for an administrative hearing with the local child support office at the address above within fifteen (15) days of the mailing of this Order as noted above. The grounds for contesting the Order are the correct identity of the individual subject to the order, and a mistake of fact, or for an Order due to a delinquency, the amount of support not paid, the timeliness of the support paid, or the reasonableness of the amount ordered to be paid to reduce the arrears.

If you contest this Order of Income Assignment within the above time limit, a hearing will be promptly set. Your employer will continue to withhold income unless a decision favorable to you is rendered. You and your employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, you have a right to further appeal the decision as described in the Department's administrative order following the decision.

It is your responsibility to keep the Court Clerk and the local child support office informed of the name and address of your current employer, whether you have access to health insurance coverage, and if so, the

(Rule 1240-02-02-.07, continued)

health insurance policy information. You must also immediately notify the Court Clerk and the local child support office of any changes in, or any additional employment, including the name and address of the new employer. Your new employer will be notified of the Order for Income Assignment.

An Order for Income Assignment shall be mandatory as long as current support or arrearages are still owed.

Clerks of court are authorized to issue an Order for Income Assignment to the employer or payer of income of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the Order for Income Assignment for child or spousal support.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C. §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.08 DEPARTMENT NOTICE TO OBLIGOR OF ISSUANCE OF INCOME ASSIGNMENT DUE TO DELINQUENCY.

- (1) The Notice form in Paragraph (6) shall be used by the Department of Human Services or its contractor which establish or enforce support under Title IV-D of the Social Security Act for the purpose of providing notice to an obligor of support in Tennessee that an Income Withholding for Support (Order for Income Assignment) has been issued which will direct the obligor's employer or payer of income to withhold income from an obligor of support to meet the child or spousal support obligation.
- (2) This Notice is used:
 - (a) When, pursuant to T.C.A. § 36-5-501(b)(1)(B) no Order for Income Assignment had been previously issued for any reason, and where the records of the Clerk or the Department of Human Services show the obligor is currently delinquent;
 - (b) When, pursuant to T.C.A. § 36-5-501(b)(1)(D) an Affidavit of Arrearage pursuant to 1240-02-02-.11 to support the issuance of an Order for Income Assignment is filed by the custodial parent, a guardian, or other caretaker to whom child support was previously paid directly by the obligor alleging the obligor is now in arrears as defined by T.C.A. § 36-5-101(f)(1) and T.C.A. § 36-5-501(b)(1)(G); or
 - (c) When an obligor fails to pay the ordered support by the due date.
- (3) The Federal Income Withholding for Support (Order for Income Assignment) form set forth in 1240-02-02-.04 will be attached to the Notice form in Paragraph (6).
- (4) The Department may combine the language in this form with language of the notices issued by the Department described in this Chapter to provide notice of various actions taken by the court or actions taken administratively by the Department, and the form may be modified and transmitted by the TCSES system to contain, as may be applicable, combinations of the language in any of those notices on one form.
- (5) Appeals.
 - (a) The obligor may contest this Notice of Income Assignment by filing a written request for an administrative hearing with the local child support office shown on the Notice within

(Rule 1240-02-02-.08, continued)

fifteen (15) days of the mailing of the Notice. The grounds for contesting the Notice are limited to a determination of the correct identity of the person(s) or entity(ies) to whom or to which the administrative action is directed, to whether there is a mistake of fact involving the action, and, if the court has not already determined the amount of arrears or the amount of the payment:

1. A determination of the amount of arrearage;
2. Whether the amount of payments on the arrearage is reasonable as to the amount to be paid and the time over which the obligation is to be paid.

- (b) If the obligor contests the Notice of Income Assignment within the above time limit, a hearing will be promptly set. The employer will continue to withhold income unless a decision favorable to the obligor is rendered. The obligor and the employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, the obligor has a right to further appeal the decision as described in the Department's hearing order following the decision.

(6) Form:

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ISSUANCE OF INCOME ASSIGNMENT DUE TO DELINQUENCY

You are hereby notified that due to a delinquency in your child support payments in the amount of \$_____ as of the _____ day of _____, _____, or due to your failure to pay your obligation on the date ordered, your employer, or other person, corporation, or institution which is a payer of income has been directed, pursuant to Tennessee Code Annotated, § 36-5-501, to withhold income payable to you to satisfy your support obligation in the amounts and for the purposes shown in the attached Income Withholding for Support (Order for Income Assignment).

Your total arrearage as of the _____ day of _____, _____, is \$ _____ plus twelve (12%) per annum simple interest.

You may contest this Notice of Income Assignment by filing a written request for an administrative hearing with the local child support office at the address above within fifteen (15) days of the mailing of this notice as noted above. The grounds for contesting the Notice are limited to a determination of the correct identity of the person(s) or entity(ies) to whom or to which the administrative action is directed, to whether there is a mistake of fact involving the action, and, if the court has not already determined the amount of arrears or the amount of the payment:

1. A determination of the amount of arrearage;
2. Whether the amount of payment on the arrearage is reasonable as to the amount to be paid and the time over which the obligation is to be paid.

If you contest this Notice of Income Assignment within the above time limit, a hearing will be promptly set. Your employer will continue to withhold income unless a decision favorable to you is rendered. You and your employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, you have a right to further appeal the decision as described in the Department's hearing order following the decision.

(Rule 1240-02-02-.08, continued)

It is your responsibility to keep the Court Clerk and the local child support office informed of the name and address of your current employer, whether you have access to health insurance coverage, and if so, the health insurance policy information. You must also immediately notify the Court Clerk and the local child support office of any changes in, or any additional employment, including the name and address of the new employer. Your new employer will be notified of the Order for Income Assignment.

An Order for Income Assignment shall be mandatory as long as current support or arrearages are still owed.

Clerks of court are authorized to issue an Order for Income Assignment to the employer or payer of income of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the Order for Income Assignment for child or spousal support.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 36-5-1002, and 71-1-132(c); 42 U.S.C. §§ 651 *et seq.*, 42 U.S.C. §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.09 DEPARTMENT NOTICE TO OBLIGOR OF INCREASE IN INCOME ASSIGNMENT TO ADMINISTRATIVELY REDUCE ARREARS.

- (1) The Notice form in Paragraph (5) shall be used by the Department of Human Services or its contractors which establish or enforce support under Title IV-D of the Social Security Act for the purpose of providing notice to an obligor of support in Tennessee that, due to an accumulated arrears balance in the support payments, an increase in the amount of support has been directed by the Department pursuant to T.C.A. § 36-5-501(b)(1)(B)-(E) to reduce the accumulated arrears balance by a reasonable amount within a reasonable timeframe, and a modification has been made to the previously issued Income Withholding for Support (Order for Income Assignment) which will direct the obligor's employer or payer of income to withhold additional income from an obligor of support to meet the child or spousal support obligation.
- (2) The form referenced in 1240-02-02-.04(1)(a) will be attached to the Notice form in Paragraph (5).
- (3) The Department may combine the language in this form with language of the notices issued by the Department described in this Chapter to provide notice of various actions taken by the court or actions taken administratively by the Department, and the form may be modified and transmitted by the TCSSES system to contain, as may be applicable, combinations of the language in any of those notices on one form.
- (4) Appeals.
 - (a) The obligor may contest this Notice of Increase in Income Assignment by filing a written request for an administrative hearing with the local child support office shown on the Notice within fifteen (15) days of the mailing of the Notice. The grounds for contesting the Notice are limited to a determination of the correct identity of the person(s) or entity(ies) to whom or to which the administrative action is directed, to whether there is a mistake of fact involving the action, and, if the court has not already determined the amount of arrears or the amount of the payment:
 1. A determination of the amount of arrearage;

(Rule 1240-02-02-.09, continued)

2. Whether the payment on the arrearage is reasonable as to the amount to be paid and the time over which the obligation is to be paid.

- (b) If the obligor contests the Notice of Income Assignment within the above time limit, a hearing will be promptly set. The employer will continue to withhold income unless a decision favorable to the obligor is rendered. The obligor and the employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, the obligor has a right to further appeal the decision as described in the Department's hearing order following the decision.

(5) Form:

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES
NOTICE OF INCREASE IN INCOME ASSIGNMENT TO ADMINISTRATIVELY REDUCE ARREARS

TO: _____ <OBLIGOR>
_____ <ADDRESS>

FROM: _____ <LOCAL CHILD SUPPORT OFFICE >
_____ <ADDRESS>
_____ <TELEPHONE NUMBER>

MAILING DATE OF NOTICE: _____

Our records indicate that you are delinquent on your child support or spousal payments of at least \$_____ as of _____ <Date>.

Pursuant to Tennessee Code Annotated, § 36-5-501(b)(1)(B)-(E), you are hereby notified that, in addition to all sums you are currently paying by previously ordered income assignments, \$_____ per _____ has been added to reduce the aforementioned delinquency. The amount set forth above has been determined to be a reasonable amount which will reduce the delinquency in a reasonable amount of time.

You may contest this Notice of Income Assignment by filing a written request for an administrative hearing with the local child support office at the address above within fifteen (15) days of the mailing of this notice as noted above. The grounds for contesting the Notice are limited to a determination of the correct identity of the person(s) or entity(ies) to whom or to which the administrative action is directed, to whether there is a mistake of fact involving the action, and, if the court has not already determined the amount of arrears or the amount of the payment:

1. A determination of the amount of arrearage;
2. Whether the payment on the arrearage is reasonable as to the amount to be paid and the time over which the obligation is to be paid.

If you contest this Notice of Income Assignment within the above time limit, a hearing will be promptly set. Your employer will continue to withhold income unless a decision favorable to you is rendered. You and your employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, you have a right to further appeal the decision as described in the Department's hearing order following the decision.

(Rule 1240-02-02-.09, continued)

It is your responsibility to keep the Court Clerk and the local child support office informed of the name and address of your current employer, whether you have access to health insurance coverage, and, if so, the health insurance policy information. You must also immediately notify the Court Clerk and the local child support office of any changes in, or any additional employment, including the name and address of the new employer. Your new employer will be notified of the Order for Income Assignment.

An Order for Income Assignment shall be mandatory as long as current support or arrearages are still owed.

Clerks of court are authorized to issue an Order for Income Assignment to the employer or payer of income of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the Order for Income Assignment for child or spousal support.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, 36-5-1002, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C. §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.10 DEPARTMENT NOTICE OF ENROLLMENT IN HEALTH CARE COVERAGE.

- (1) The Notice form in Paragraph (4) shall be used by the Department of Human Services or its contractors which establish or enforce support under Title IV-D of the Social Security Act for the purpose of providing notice to an obligor of support in Tennessee, as directed on the Modified Income Withholding for Support (Order for Income Assignment), that, following a change of employers by the obligor, the obligor's employer has been directed to enroll the obligor's child(ren) who are subject to the court order for support in health care coverage provided by the obligor's employer.
- (2) For a modification of a previous Income Withholding for Support (Order for Income Assignment) which now includes a notice of enrollment in health care, the form referenced in 1240-02-02-.04(1)(a), will be attached to the Notice form in Paragraph (4).
- (3) The Department may combine the language in this form with language of the notices issued by the Department described in this Chapter to provide notice of various actions taken by the court or actions taken administratively by the Department, and the form may be modified and transmitted by the TCSSES system to contain, as may be applicable, combinations of the language in any of those notices on one form.
- (4) Form:

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES
NOTICE OF ENROLLMENT OF CHILDREN IN HEALTH CARE COVERAGE

Pursuant to T.C.A. § 36-5-101(h) and the attached Income Withholding for Support (also called an Order for Income Assignment, Income Assignment Order, Income Assignment or Assignment), your employer has been directed, to enroll the following child(ren) in your family healthcare plan offered by your employer:

| | | |
|-------|-----------|------------|
| _____ | DOB _____ | SSN: _____ |
| _____ | DOB _____ | SSN: _____ |
| _____ | DOB _____ | SSN: _____ |

(Rule 1240-02-02-.10, continued)

____ DOB _____ SSN: _____

You may contest this Notice of Enrollment by filing a written request for an administrative hearing with the child support office shown above within fifteen (15) calendar days of the mailing date of this Notice and by filing a copy of your written appeal request with your employer within the same timeframe. If you do not file the request with your employer, the above-named child(ren) will be enrolled in any family healthcare coverage available to you through your employer even if your appeal is timely filed with the local child support office. The grounds for contesting the enrollment are limited to a mistake of identity or fact involving the action and the reasonableness of the cost of the insurance.

If you contest this Notice of Enrollment within the above time limit, a hearing will be promptly set. If you fail to timely file a copy of your appeal of the Notice of Enrollment for health insurance coverage, your employer will enroll and continue the health care coverage for your child(ren) pending the appeal decision. You and your employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment), and the Notice or Enrollment contained on that form, was issued. If an unfavorable decision is rendered, you have a right to further appeal the decision as described in the Department's administrative order following the decision.

It is your responsibility to keep the Court Clerk and the local child support office informed of the name and address of your current employer, whether you have access to health insurance coverage, and if so, the health insurance policy information. You must also immediately notify the Court Clerk and the local child support office of any changes in, or any additional employment, including the name and address of the new employer. Your new employer will be notified of the Order for Income Assignment.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-101(f), 36-5-116, 36-5-501, 36-5-1002, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004).

Administrative History: Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; December 7, 2009.

1240-02-02-.11 AFFIDAVIT OF ARREARAGE.

- (1) The Affidavit form in Paragraph (2) shall be completed by the custodial parent, the guardian, or other caretaker of the child and shall be used by the Clerk of the Court or by the Department of Human Services or its contractor for the purpose of supporting the issuance of an Income Withholding for Support (Order for Income Assignment) pursuant to Rule 1240-02-02-.04. It will only be used in conjunction with the request of a custodial parent, a guardian, or other caretaker to whom child or spousal support was previously paid directly, because no Order for Income Assignment had been issued, for any reason, when the obligor of support is now alleged to be in arrears in the affidavit filed by the custodial parent, the guardian, or other caretaker of the child.

- (2) Form:

STATE OF TENNESSEE

STATE OF TENNESSEE
COUNTY OF _____

AFFIDAVIT OF ARREARAGE

First being duly sworn, affiant would state:

(Rule 1240-02-02-.11, continued)

I am _____, <Custodial Parent/Guardian/Caretaker of the Child>.
 I do hereby swear or affirm that to the best of my knowledge, information and belief, as of _____
 <Date>, the Respondent, _____, is in arrears for support in the total
 amount of \$ _____, which was calculated as follows:

| | | |
|-------------|------------|-----------------|
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |
| Month _____ | Year _____ | Amount \$ _____ |

 Name-Please Print

 Signature

 Date

Further affiant sayeth not.

Sworn to and subscribed before me this _____ day of _____, _____.

 Notary Public/Court Clerk

My commission expires: _____

Authority: T.C.A. §§4-5-202, 36-5-501, 71-1-132(c), 42 U.S.C. §§651 et seq., 42 U.S.C. §§652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii) and 666(a)(8) and (b), 45 C.F.R. §§303.6(c)(1), 303.7, and 303.100.
Administrative History: Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.12 MODIFIED INCOME WITHHOLDING FOR SUPPORT (ORDER FOR INCOME ASSIGNMENT).

- (1) For a modification of the amount of a previous Income Withholding for Support (Order for Income Assignment), the Notice form in Paragraph (3) will be attached, by the Department of Human Services or its contractors enforcing child support under Title IV-D, to the modified Order.
- (2) Appeals.
 - (a) The obligor may contest this Notice of Income Assignment by filing a written request for an administrative hearing with the local child support office shown on the Notice within fifteen (15) days of the mailing of the Notice. The grounds for contesting the Notice are that the income withholding is improper due to a mistake of fact, or the amount withheld is improper due to a mistake of fact.

(Rule 1240-02-02-.12, continued)

- (b) If the obligor contests the Notice of Income Assignment within the above time limit, a hearing will be promptly set. The employer will continue to withhold income unless a decision favorable to the obligor is rendered. The obligor and the employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, the obligor has a right to further appeal the decision as described in the Department's administrative order following the decision.

(3) Form:

STATE OF TENNESSEE
DEPARTMENT OF HUMAN SERVICES
NOTICE OF MODIFICATION OF INCOME ASSIGNMENT

TO: _____ <OBLIGOR>
_____ <ADDRESS>

FROM: _____ <LOCAL CHILD SUPPORT OFFICE >
_____ <ADDRESS>
_____ <TELEPHONE NUMBER>

MAILING DATE OF NOTICE: _____

Pursuant to a court order, statutory requirements directing payment by Income Withholding for Support (Order for Income Assignment), or administrative actions by the Department of Human Services, you have been ordered to pay your child support obligation by means of an income assignment. This is to notify you that the original Income Withholding for Support (Order for Income Assignment) has been modified and that your employer, or other person, corporation, or institution which is a payer of income has been directed, pursuant to T.C.A. § 36-5-501, to withhold a greater or lesser amount of income payable to you to satisfy your support obligation.

Your income assignment has been modified in the following manner:

You may contest this Notice of Modification Income Assignment by filing a written request for an administrative hearing with the local child support office at the address above within fifteen (15) days of the mailing of this notice as noted above. The grounds for contesting the Notice are that the income withholding is improper due to a mistake of fact, or the amount withheld is improper due to a mistake of fact.

If you contest this Notice of Income Assignment within the above time limit, a hearing will be promptly set. Your employer will continue to withhold income unless a decision favorable to you is rendered. You and your employer will be notified of the decision within forty-five (45) days of the date the Income Withholding for Support (also called an Order for Income Assignment or Income Assignment) was issued. If an unfavorable decision is rendered, you have a right to further appeal the decision as described in the Department's administrative order following the decision.

(Rule 1240-02-02-.12, continued)

It is your responsibility to keep the Court Clerk and the local child support office informed of the name and address of your current employer, whether you have access to health insurance coverage, and if so, the health insurance policy information. You must also immediately notify the Court Clerk and the local child support office of any changes in, or any additional employment, including the name and address of the new employer. Your new employer will be notified of the Order for Income Assignment.

An Order for Income Assignment shall be mandatory as long as current support or arrearages are still owed.

Clerks of court are authorized to issue an Order for Income Assignment to the employer or payer of income of the obligor and to institute the process to assign income when the obligor fails to pay court costs, but shall not have priority over the Order for Income Assignment for child or spousal support.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 36-5-116, 36-5-501, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C. §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100; and United States Department of Health and Human Services Office of Child Support Enforcement Action Transmittal 04-05 (July 15, 2004). **Administrative History:** Original rule filed October 14, 1999; effective December 28, 1999. Public necessity rule filed May 20, 2005; effective through November 1, 2005. Amendments filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.

1240-02-02-.13 NOTICES TO AND APPEALS BY OBLIGORS OF OUT-OF-STATE EMPLOYERS/PAYERS OF INCOME.

- (1) In any circumstances in this Chapter in which the Clerk or the Department is required to send a Notice to the obligor, the information described in the Notice in Paragraph (3) shall be included in the Notice, or it shall be attached as a separate notice to any Notice required to be sent by this Chapter to inform the obligor of the obligor's appeal rights.
- (2) An obligor whose out-of-state employer or payer of income is sent any Income Withholding for Support (Order for Income Assignment) Order established by this Chapter may appeal the Order pursuant to the provisions of Section 506 of the Uniform Interstate Family Support Act (UIFSA)[codified in Tennessee at Tennessee Code Annotated (T.C.A.) § 36-5-2506].
- (3) Form:

STATE OF TENNESSEE NOTICE OF APPEAL RIGHTS FOR OBLIGORS OF OUT-OF-STATE EMPLOYER/PAYERS OF INCOME

As an obligor of child or spousal support whose employer or payer of income in a state other than Tennessee receives either the attached initial Income Withholding for Support (Order for Income Assignment) or the attached modified Income Withholding for Support (Order for Income Assignment) from the State of Tennessee, you may appeal the issuance of the Order pursuant to the provisions of Section 506 of the Uniform Interstate Family Support Act (UIFSA)[codified in Tennessee at T.C.A. § 36-5-2506].

These provisions are as follows:

1. An obligor may contest the validity or enforcement of an income-withholding order issued in Tennessee and received directly by your employer in this state in the same manner as if the order had been issued by a tribunal of the state of your employer or payer of income [UIFSA Section 604] [T.C.A. § 36-5-2604] (Choice of Law) applies to the contest.
2. The obligor shall give notice of the contest to:

(Rule 1240-02-02-.13, continued)

- (a) The Tennessee child support office noted in the attached Order;
 - (b) Your employer or payer of income named in the attached Order that has received an income withholding order; and
 - (c) The person [the caretaker of the child] or agency [the Tennessee Court or Tennessee Child Support office] designated to receive payments in the income-withholding order or if no person or agency is designated, to the person who is the recipient of the support.
3. Section 604 of UIFSA [T.C.A. § 36-5-2604] provides that:
- (a) The law of Tennessee governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.
 - (b) In a proceeding for arrearages before a Tennessee tribunal, Tennessee's statute of limitations governs. Effective July 1, 1997, there is no statute of limitations for child support obligations in Tennessee, meaning that support can be collected at any time and can always be collected until the support obligation is satisfied.

Authority: T.C.A. §§ 4-5-202, 8-21-403, 28-3-110, 36-2-321, 36-5-103, 36-5-116, 36-5-501, 36-5-2506, 36-5-2604, and 71-1-132(c); 42 U.S.C. §§ 651 et seq., 42 U.S.C §§ 652(a)(11), 654(9)(E), 654a(g)(1)(A)(ii), 654b(a), and 666(a)(8) and (b); and 45 C.F.R. §§ 303.6(c)(1), 303.7, and 303.100.

Administrative History: Original rule filed October 14, 1999; effective December 28, 1999. Amendment filed August 17, 2005; effective October 31, 2005. Amendment filed September 8, 2009; effective December 7, 2009.