

Welfare and Child Support

When you apply for welfare, you are required to cooperate in obtaining a child support order.¹ If you fail to cooperate without good cause², your assistance may be reduced or lost entirely.

For as long as you receive welfare, the child support payments that come due are the property of the Department of Public Welfare (DPW). The only exception is that up to \$50 per month of current support payments will be *passed through* to you.³ Domestic Relations will send the rest of the payments to DPW to pay back the welfare your family receives.

If you already have a child support order when you apply for welfare, you have to assign your right to any past-due support to DPW. These are called *pre-assistance arrears*.⁴

When you leave welfare, Domestic Relations stops sending *current* support payments to DPW and immediately starts sending the payments to you.

What happens to the arrears? Arrears that have built up while you were receiving welfare remain permanently assigned to DPW. Pre-assistance arrears, which were a debt to you before you went on welfare, are handled differently. The law has been changing so the rules depend on when these arrears were assigned to DPW⁵

* For an assignment before October 1, 1997, pre-assistance arrears are permanently assigned to DPW.

* For an assignment between October 1, 1997 and September 30, 1998, pre-assistance arrears are temporarily assigned to DPW. They will be reassigned to you when you leave welfare, or on October 1, 2000, whichever comes later.

* For an assignment on or after October 1, 1998, pre-assistance arrears are temporarily assigned to DPW. They will be reassigned to you when you leave welfare.

There is a catch and it is a big one. When pre-assistance arrears are reassigned to you, DPW holds on to the right to any arrears that it collects through a *Federal income tax refund offset*.⁶ If the arrears are collected by any other means, such as weekly payments by the non-custodial parent, or by a *state* tax refund intercept, you will get the payments.

After you leave welfare, you may have a child support order which includes current payments and payments for arrears. Some of the arrears may be assigned to you and some to DPW.⁷

When child support payments are received by Domestic Relations, they will be distributed in this order⁸.

First, you are paid current support.

Next, arrears which are assigned to you and paid.

Last, DPW is paid for arrears assigned to them.

Domestic Relations uses a system which should distribute payments accurately over the course of a year. However, it will be helpful in your planning to know what to expect week by week. Here's how it works.

We will use this example. Suppose your child support order is \$65/week plus \$10/week on the arrears. It is collected through a weekly wage attachment. There are total arrears of \$1,500, of which \$1,000 is assigned to DPW and \$500 is assigned to you.

Domestic Relations first calculates the monthly current child support. They multiply the weekly amount by 4.345. That is the average number of weeks in a month. So, in the example, your monthly support is calculated to be \$282.42. You will receive all of the support collected⁹ in the month until you have gotten \$282.42. The first three checks in the month will be for \$75.00 and are applied to current support. The fourth check is distributed as \$57.42 for current support and \$17.58 to reduce the arrears. In those months in which there is a fifth check, the payment will be applied in full to the arrears.

As long as the arrears are being paid to you, you will get all the money. The checks should come regularly and all be in the same amount. However, when *your* arrears are paid in full, DPW will start to receive the arrears. In our example, you could expect to receive, in any month, three checks for \$75.00, then a check for \$57.42. That will get you your monthly total for current support. Four months each year have five weekly pay days. In those months, the fifth check will be assigned to DPW.

The first three checks of the month will be greater than your weekly order because they include the weekly payment on arrears. The fourth check will be lower because a portion goes to DPW. In the months with five pay days, you won't get a fifth check at all.

The case is a little more complicated if the non-custodial parent has more than one Pennsylvania child support order to pay. Payments are first divided in proportion to the current orders. After the current orders are paid, any additional payment is divided in proportion to the arrears on each case. Since the arrears will change each month, the amount of the fourth and fifth checks may also vary from month to month.

If you want to know how much has been received, when it was collected, and how it has been distributed, ask Domestic Relations for two printouts. The TRNL (Financial Transaction Log) shows how payments are distributed. The Cinq (Collections Inquiry by Payor) shows the date of collection for each payment.

*The law often changes. Each case is different.
This pamphlet is meant to give you general
information and not to give you specific legal advice.*¹⁰

NOTES

1. Cooperation means:

- (1) providing accurate information requested by the Department of Public Welfare (DPW) or the Domestic Relation Section (DRS) in order to determine paternity and establish financial and medical support;
- (2) identifying the non-custodial parent of a child, and appearing for genetic testing if requested;
- (3) reporting any changes that are relevant to the support order within seven (7) days of the change; and,
- (4) paying to DPW any support payment received directly from a non-custodial parent.

2. What does it mean to have good cause?

You are not required to cooperate with the child support requirements if you can establish good cause. This includes circumstances in which:

- (1) the child was conceived as a result of incest or rape;
- (2) adoption proceedings for the child are before a court;
- (3) a social agency is assisting the you in determining whether to put the child up for adoption; and/or
- (4) physical or emotional harm to the children or to you would be likely if paternity or support action is taken.

If cannot show you have good cause, but still refuse to cooperate, your welfare will be reduced up to 25%. DPW can file support against the non-custodial parent on heir own.

3. The “pass through”. If you receive General Assistance (GA) the first \$50 in support payments of each month is “passed through” to you. If you are receive Temporary Assistance for Needy Family (TANF) you will get about 46% of every child support dollar paid but no more than \$50 each month. This means that if DPW collects \$108 or more in the month, then you will receive \$50. The Federal government gets other 54%.

After the pass through, the remaining support payments for the month go to DPW. If the current support is collected from more than one person, the pass through is limited to the first \$50 of the total rather than \$50 for each order. There can be more than a single \$59 pass through only if there is more than one grant group in the household.

4. DPW cannot collect more that the total amount of assistance that they give you.

5. The **date of assignment** is approximately the date you started receiving welfare. If you received welfare, then stopped and started again, you will have more than one date of assignment. Different rules may apply to different portions of the arrears.

6. Arrears can be collected through the **Federal tax refund offset program** when there are at least \$25 in arrears owed to DPW, or at least \$500 owed to you.

7. You can request a report from Domestic Relations which will show, month-by month, how much of the arrears are assigned to you and how much to DPW. Ask for a printout of the COBL (Case Level Obligation Balances) screen. If you disagree with the statement, you may file a Statement of Claim with Domestic Relations. That is a request to DPW to research the history of welfare payments and support orders and payments to show how the arrears should be assigned. This report is prepared in Harrisburg and may take six (6) months or more.

8. Here again there is a separate rule for arrears collected through the **Federal Tax Refund offset**. When that happens, DPW steps to the head of the line and its arrears are paid before your arrears.

9. Domestic Relation uses the date of collection rather than the date of receipt to decide which month a payment is for. For a wage attachment this means the date the payment is attached, not the date in which the payment is received by Domestic Relations.

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