

2017 ACDCSS Employer Workshop Q&A

Q. If the employee owes the company, is there a penalty for the employer for deducting first what the employee owes vs. the child support?

A. The law dictates that child support deductions would take priority over an employer deduction.

Q. Wage verification form, how do you complete if there is a modified pay structure?

A. If the form does not accommodate an explanation of the modified pay structure please note or attach an explanation.

Q. If we are a construction company, and we use subcontractors, do we report them using the form DE542?

A. If you complete federal Form 1099-MISC for their services then you would report them using form DE 542. For additional information go to EDD's website at www.edd.ca.gov.

Q. Please clarify, termination reporting is only for our employees who have an existing order?

A. You should notify the Local Child Support Office(s) who sent the IWO and/or NMSN when an employee terminates their employment with you when you are currently honoring an IWO and/or NMSN. For the IWO you would go online at childsup.ca.gov and complete the Employee Status Report (Form 0522) and the Termination of Benefits/Employment Notice for the NMSN (Form 0114). These do not come prepopulated with employee and/or case information, so please be sure to include identifying information such as SSN, Participant ID and/or Case Number. Sending these forms ensure our system is updated to indicate your employee no longer works there; thereby reducing the amount of mail and/or contact from our office.

Q. Electronic payments, and electronic IWOs are two different databases for signup; is this correct?

A. Yes, you would arrange for electronic payments through the California State Disbursement Unit (SDU) @ www.childsup.ca.gov. The e-IWO enrollment is via the Federal Office of Child Support Enforcement. You can obtain information regarding e-IWO @ www.acf.hhs.gov/programs/css/employers/e-iwo.

Q. Will the slides be available at a later time?

A. Yes, they are currently available at www.acdcss.org.

Q. If an employee has been on a leave of absence for 30 or more days, are we required to "catch up" on child support when the employee returns?

A. If the employee is on paid leave, the deductions would be made from the paid leave, *even if that paid leave is a reduced amount*. If the employee is on unpaid leave, you would not be required to catch up when the employee returns. The Local Child Support Agency (LCSA) may increase the IWO amount as a result. If so, you will receive an amended IWO. In either scenario, you should report the leave of absence to the LCSA.

Q. With regard to lump sum payments, there are some employees that accrue overtime and this accrual is put into a "comp time" bucket. Employees have the option to cash out this bucket. Would this be considered a lump sum payment?

A. Yes.

Q. If we deduct a \$1.50 garnishment fee to help with garnishment administrative costs, do we count the fee in the 50% limit, or can we deduct up to 50% of disposable wages plus \$1.50 garnishment fee?

A. The \$1.50 would be part of the 50% limit as it is a mandatory deduction.

Q. What if the payroll office differs from the office remitting the payment of the IWO, which office contact should be on the forms?

A. When updating employer demographics, you can designate different contacts for different purposes. When completing forms, the form requires the person completing the form to provide their contact information.

Q. Please clarify: What if we have a short turnaround time from being made aware of a bonus payment and the payment processing. Are we to hold the payment until we receive information from the Agency on any additional withholding requirements? What, if anything, should be provided to the employee?

A. You are to hold the payment and contact the Lump Sum Response Team. The Lump Sum Response Team will issue a Lump Sum IWO to you. The Lump Sum Response Team can provide a turnaround as quick as 24 hours or less, so please indicate the necessity for a rush. Provide a copy of the Lump Sum IWO to the employee.

Q. When an employee receives a pay increase are we to notify you?

A. No, you are not required to proactively notify us when an employee has a change in their rate of pay.

Q. We have employees that work 9 months, 10 months, and 11 months, which means they won't have a paycheck for 3, 2, or 1 months. How should we be deducting for their IWO for the month or months they don't have pay? We don't want them to be delinquent.

A. You do not need to withhold if there are no wages being paid. There are payment options when, for whatever reason, an employee needs to make payments on their own. Please feel free to direct them to us and/or our State website: www.chilsup.ca.gov.

Q. When you have a restaurant business, and the employee receives cash tips, do we use the 50% rule with cash tips and wages?

A. Generally, tips are either received in cash directly from the customer or paid through a credit/debit card used by the customer. When paid through a credit/debit card, you have 48 hours to forward that money to your employee; therefore, in neither case is it expected for you to deduct from the tips. This may mean that you may have to deduct up to 50% of the paid wages. Please contact the LCSA for specific instructions. Instructions may vary depending on if you have access to the tips or if the employee receives them directly, and it may depend on the case itself.

Q. We offer sick leave and vacation pay outs twice per year. Should we consider these lump sum pay and withhold?

A. Yes, you should contact the Lump Sum Response Unit Team.

Q. If our employee is subject to an NMSN, do we include the insurance premium in the net amount or as part of 50% calculation?

A. The premium required per an NMSN is considered a mandatory deduction and, therefore, the child support plus the premium costs should not exceed 50% of employee's net disposable income (NDI). If the cost of the premium in conjunction with the child support deduction is above 50% of the employee's NDI, it is important to notify the LCSA.

Q. What if the employee's pay varies with overtime? Do we base the withholding order just on base salary?

A. The IWO will advise you how much to withhold. That amount should be withheld per the pay cycle from any type of pay (base pay or overtime) up to 50% of NDI.

Q. In the formula shown for disposable net pay, I noticed Social Security and Medicare were not noted. Are these considered mandatory tax?

A. Yes.

Q. What if health insurance provider requires a parent to be insured in order to insure the child; is the parent portion of the premium included in the 50% calculation?

A. Yes. The child support and all costs associated with enrolling the parent and child(ren) cannot exceed 50% of NDI. Any time the child support and health insurance premiums costs exceed 50% of NDI, you should advise the LCSA. The LCSA may terminate the NMSN because the cost is not considered to be reasonable.

Q. Are there any repercussions for reporting new hires late or not at all?

A. Per EDD's website: "Employers who fail to report the hiring or rehiring of an employee, as required and within the time required, may be charged a penalty of \$24 for each failure to report or \$490 if the failure to report is an intentional agreement between the employer and employee to not supply the required information or to supply a false or incomplete report." In addition, if an employer fails to withhold per an Income Withholding Order they may be liable for up to three times the amount of any missed payments.

Q. Will this recording be available for later review?

A. Yes, it has been posted to www.acdcss.org.

Q. How about short term disability? Is this subject for withholding also?

A. Yes, please contact the LCSA to advise of the source of the short term disability payments to the employee. If via worker's compensation the LCSA will issue an IWO to the insurance carrier. The LCSA will need the employee's date of injury, insurance company information, and claim number. If the disability is being paid through a union the LCSA will need to issue an IWO to the union. If the disability benefit is being issued by a private insurance company (AFLAC for example) the LCSA will need to issue an IWO to the insurance company. If the disability benefit is being issued by the State of California the LCSA will intercept 25% of the benefit towards the child support obligation. Any other source and in all scenarios please contact the LCSA to advise of the employee's status.

Q. Why would we have information on a Contractor or sole proprietor that we do business with?

A. If you are using a contractor, you are required by law to report that you are using their services to the Employment Development Department if you will be paying equal to or above \$600.

Q. If the custodial parent changes, does the old IWO get terminated and a new one is generated and sent to employer with the new custodial parent indicated on it?

A. Each situation may vary. The IWO is associated to a court ordered obligation. The court order number will not change solely due to a change in the custodial parent.

Q. The 7 days for the child support to be paid, is that from the processing date or the pay date?

A. From the pay date.

Q. Is the employee's share of the PERS retirement included in calculation with federal and state taxes for net income?

A. If it is a mandatory deduction, it would be included in the calculation of NDI.

Q. Please clarify reporting all new hires. Why would we report all our employees? Is this in case of a potential withholding order?

A. Yes, you are required to report all employees. Initially the intent was to compare the registry against child support records for locate purposes. Currently it is now also used to help the State reduce over-issuance of unemployment and disability benefits.

Q. How does the child support work when they are a restaurant employee and the full amount cannot be taken?

A. If the full amount cannot be taken from the base pay, then you must deduct up to 50% of their net pay. The employee will then accumulate arrears, and the employee should pay on their own from their tips or other funds to make up the difference.

Q. We have multiple legal entities and sometimes we receive an IWO addressed to the legal entity that the employee does not belong to. Should we honor it or how should we handle it?

A. You should contact the LCSA. They can update their records and issue the IWO with the correct legal name. Often times the IWO is sent out to an employer based upon how the employee was submitted through the New Hire Registry.

Q. I work for a hospital and we have travelers. Do we have to report them as independent contractors?

A. Yes, if you have or will be paying them \$600 or more.

Q. Is there an amount if the employee makes min. wage?

A. You are to deduct per the IWO unless that amount exceeds 50% of the employee's net disposable income (NDI). The maximum amount you can withhold is 50% of NDI.

Q. For the NMSN, if a cancellation notice is received for the child(ren), and the employee does not want to continue the coverage for self or child(ren), is this considered a qualifying event, and can the employee un-enroll in the benefit? This may be a hardship for the employee, and this would be when they are choosing to no longer provide the coverage.

A. If you receive an NMSN Termination from the LCSA, the coverage becomes voluntary for the employee. If the employee is requesting to remove the child from the coverage that is their right, and whether that would be a qualifying event would be up to the insurance carrier.

Q. Do we complete the Health Insurance Information if we do not have a NMSN? I was under the understanding that we only need to complete this if we got a medical support order only.

A. The Health Insurance Information form would be completed in response to an NMSN. Note the Wage and Insurance Verification document also requests information about medical coverage and the cost for premiums. Often health care premium cost information is needed and are used in the calculation of child support.

Q. What to do you do when their child lives out of the state?

A. If you receive an NMSN and you have information to indicate that the child may live out of state and you know your insurance carrier does not provide services in that state, you should notify the LCSA via your NMSN response page; please indicate what state you believe the child is living in and indicate you do not have coverage for that state on the form.

Q. In regards to lump sums, if there is a turn-around time of 24-48 hours from the SDU, who would process the notification to the employee regarding the additional withholding?

A. It is a 1-2 day turnaround time for the State's Lump Sum Response Team (which is separate from the SDU.) The Lump Sum Response Team would send the employer the Lump Sum IWO, and the employer would provide a copy to the employee.

Q. Sending a Social Security number and employee name in the mail seems to be opening the door for potential identify theft if the check is stolen or routed incorrectly. What protection does the company have against litigation if the employee's information is stolen?

A. Please refer your question to an Attorney to obtain legal advice. It is our understanding that as long as you are not negligent in handling the mail internally or when transporting the mail to the post office you should be fine. Once the mail is with the Post Office there are laws in place that indicate that tampering with the mail is a federal offense with prison time of up to 5 years and fines up to \$5,000.00. We do however recommend making payments electronically to avoid such a scenario.

Q. Can you do electronic payments for different states on California's SDU website?

A. No, each state has their own SDU. Only payments intended for the California SDU should be made on the www.casdu.com website.

Q. What is the maximum amount we can charge an employee for processing a garnishment? Is this a recurring amount or a one-time only amount?

A. It is \$1.50 for each payment processed.

Q. Earlier you had said that we should include the amount of medical premium cost into the employee's 50% deduction calculation, but what if the employee already has the children included in their insurance? Would this still be the case?

A. Yes. If the deduction for the child support in addition to the medical premium exceed 50% of the employee's net pay, notify the LCSA via the NMSN response page. Additional action may be necessary including the LCSA contacting the parties to discuss further.

Q. What do we do if the employee is a union employee and health benefits are provided through the union trust funds?

A. If you receive an NMSN, it should be forwarded on to the union for processing. You may also want to report this to the LCSA, so the LCSA can send an NMSN and any other health insurance correspondence directly to the union in the future.

Q. Can you give the address again for the PowerPoint?

A. www.acdcss.org.

Q. I still don't understand how I would report Independent Contractors.

A. Please refer to the slide in the PowerPoint, or you can obtain additional information from the EDD in your state. California's EDD website is www.edd.ca.gov/.

Q. I do not always receive a medical withholding order with child support orders; is this unusual? Should I assume there will be a medical order with child support?

A. No. Many times an IWO and an NMSN will be sent separately and/or at different times. Or it is possible there is not an order for your employee to provide coverage. If you do have any questions or concerns as to whether you should have received an NMSN, please don't hesitate to contact your LCSA.

Q. What if the employee chooses other medical insurance for him and for his dependents outside of the employer-provided coverage? Should we honor the NMSN, or should we wait for the termination of NMSN?

A. You should comply with the NMSN. You can call or notify the LCSA to advise, but due to confidentiality restraints, please refer your employee to contact the LCSA to resolve this issue.

Q. What happens when the dependent can only get health coverage if the employee has coverage, and the employee wants to discontinue coverage?

A. If the employee must have coverage in order to cover the dependent, then that coverage must be kept in place until or unless you receive an NMSN Termination.

Q. What about payment for other state IWO; is there a list of each State's SDU?

A. This and other helpful information can be found on the Federal Office of Child Support Enforcement's website:

https://www.acf.hhs.gov/sites/default/files/programs/css/state_sdu_contacts_and_program_information_1.pdf

Q. If the employee deduction is limited to the 50% of the net wages, is this based on per check for medical insurance?

A. If the total monthly deduction for health insurance plus the total monthly child support deduction is more than 50% of net, please advise your LCSA.

If the prorated deductions (based upon your payroll cycle) for health insurance and child support are more than 50% for one or more of your payroll cycles, (perhaps due to a reduction in earnings during that pay period for some reason) then you should contact your LCSA. At no time can you deduct more than 50% of your employee's net pay.

If, for instance, as sometimes is the situation with base salaries and commission salaries that are paid out separately, one pay period's check may be lower than the other, (but otherwise between the two you have enough to deduct both health insurance and child support without going over the 50% of the monthly total) you will need to prorate the deductions for each pay period.

If none of the above scenarios fits your question, please contact your LCSA.

Q. If the employee already has an IWO for child support, then the medical insurance coverage is requested, do we lower the child support payment based on the insurance coverage?

A. If the child support payment in combination with the premium would exceed 50% of the employee's NDI, then you would notify the LCSA via your NMSN response page. Please submit the details of the coverage costs for all insurance types (medical, dental and vision) and the net pay calculation for our review.

Q. We receive an NMSN, and it is reasonable cost; we enroll the child. If we receive a notice to cancel, do we automatically un-enroll the child, or do we keep them covered until the employee requests them to be unenrolled?

A. You would provide the employee a copy of the NMSN Termination Notice and obtain instructions from the employee regarding if they would prefer to keep the coverage voluntarily.

Q. What if there are not arrears due and child support is not required after 18?

A. As the employer, you would deduct until you receive an Amended IWO or an IWO Termination. The age of majority (or emancipation) is different in each State, and in California, support may not end at the age of 18 due to the child's school status. If there's ever any question, please have your employee call our office to discuss.

Q. Some of employees are paid Per Diem, does the IWO apply to per diem?

A. In general, yes. Any time you as an employer pay for services rendered, that compensation is subject to withholding. If you have specific questions with regard to irregular pay dates and how to implement deduction of an IWO, please contact an LCSA for guidance.

Q. So if we already take out the payments during pay dates, we may also have to take payments when they get bonuses and lump sum payments?

A. You may. If the employee has an arrears balance, our Lump Sum IWO will ask for the balance due or 50% of the bonus if the balance exceeds 50% of the bonus or lump sum

payment. You will need to contact the Lump Sum Response Team who will send you a Lump Sum IWO indicating the amount to be withheld.

Q. So if the employee is current on child support, and they receive lump sum payments, we would not take additional funds unless they are delinquent on child support?

A. With each bonus/lump sum payment to the employee, you are required to contact the Lump Sum Response Team to inquire if you will need to deduct from the payment.

Q. How does the reporting work for vacation pay out? Should we report it as soon as we get the notice from the employee that they are requesting a vacation payout?

A. Yes.

Q. If the independent contractor is an LLC, sole proprietor or corporation, do I need to submit them to the child support?

A. No, per EDD's website (www.edd.ca.gov) independent contractors that are incorporated, a limited liability partnership (LLP), or limited liability company (LLC) are not required to be reported.

Q. If someone takes an advance on their paycheck, do I have to report that?

A. You don't have to report it, but the advance would be subject to the IWO.

Q. How do I know an employee is in arrears?

A. In general, we do not report to the employer whether or not your employee have an arrears balance or how much that balance may be. On the IWO that you receive, there are separate lines for current, ongoing child support and the amount to collect for arrears. However, due to the many different types of payments we may receive over the life of the case, that balance if any, can vary greatly. You should continue to deduct per the IWO until and unless you receive an amended IWO or IWO Termination Notice. If this question is related to a lump sum IWO, you would need to contact the Lump Sum Response Team to inquire if you need to withhold from a lump sum payment.

Q. What about cash advances as wages?

A. More information is needed to be able to answer this question. Please contact an LCSA.

Q. So you mean all non-taxable income will not be deducted nor withheld?

A. More information is needed to be able to answer this question. Please contact an LCSA.

Q. If an employee is on short-term disability and is receiving a check from the insurance company in conjunction with a paycheck from us to equal their bi-weekly earnings, do we take the 50% in whole from our wages?

A. You would take the amount indicated in the IWO. If the wages are not enough to pay the entire amount specified in the IWO, then the maximum amount is 50%. We may or may not be able to deduct from the disability payments, but if there is a concern, please have your employee contact their LCSA to discuss.

Note: For this reason it is important that you contact the LCSA to report when an employee is receiving any type of disability or has been injured on the job and is receiving workers' compensation.

Q. Do we still report vacation payout when the employee is doing it to pay education expenses for the child that the order is for?

A. Yes.

Q. Again, when we are terminating an employee, and we pay everything out on one check including their remaining vacation pay, would we withhold their required prorated amount and request a lump sum IWO?

A. Yes. The vacation payout would be subject to lump sum withholding.

Q. If you pay bi-weekly, and your current bi-weekly calendar actually will have 27 pay periods for the year, are you required to deduct on the 27th pay period?

A. This happens once every 7 years. You can withhold from the 27 pay periods or you can prorate the yearly child support deduction amount and deduct from the first 26 pay periods. It is possible that there could be impacts to your employee if opting with deducting from the first 26 pay periods. To illustrate: You deduct from the 26th pay period in the middle of December and you skip the 27th pay period at the end of December. Then the 1st pay period for January is not until the middle of January, and the 2nd pay period is not until the end of January. Depending upon how you remit payments to the SDU, there is the potential that the 2nd pay period at the end of January may not be *received by the SDU* until February, thereby resulting in only 1 payment to your employee's account in January. (The SDU only goes by the date of receipt, not the date it was withheld or remitted.) This account would then be considered delinquent for January and subject to all of the enforcement tools in place for delinquent accounts.

