

## TITLE 72

### WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION

#### CHAPTER 13

#### EMPLOYMENT SECURITY LAW

72-1365.PAYMENT OF BENEFITS. (1) Benefits shall be paid from the employment security fund to any unemployed individual who is eligible for benefits as provided by section 72-1366, Idaho Code.

(2) Periodically, the department of health and welfare, bureau of child support enforcement, shall forward to the director a list containing the full name and social security number of persons from whom it is seeking child support. The director shall match the names and social security numbers on the list with its records of individuals eligible for benefits, and shall notify the department of health and welfare, bureau of child support enforcement, of the address and amount of benefits due each individual.

(a) Voluntary withholding. The director shall deduct and withhold from any benefits payable to an individual that owes child support obligations as defined under paragraph (g) of this subsection, the amount specified by the individual to the director to be deducted and withheld under this subsection, if paragraph (b) of this subsection below is not applicable.

(b) Involuntary withholding. The director shall withhold any benefits of any person within the limits established by section 11-207, Idaho Code, upon notification and order by the department of health and welfare, bureau of child support enforcement, to collect any delinquent child support obligation which has been assigned on behalf of any individual to the department of health and welfare under sections 56-203A and 56-203B, Idaho Code, or a child support obligation which the department seeks to collect pursuant to chapter 12, title 7, Idaho Code. The set-off or withholding of any benefits of a claimant shall become final after the following conditions have been met:

(i) The child support payment to be set-off or withheld is a child support obligation established by order as defined in section 7-1202, Idaho Code.

(ii) All liabilities owed by reason of the provisions of section 72-1369, Idaho Code, have been collected by the director.

(iii) Notice of the set-off or withholding has been mailed by registered or certified mail from the department of health and welfare, bureau of child support enforcement, to the claimant-obligor at the address listed on the claim.

Within fourteen (14) days after such notice has been mailed (not counting Saturday, Sunday, or state holidays as the 14th day), the claimant-obligor may file a protest in writing, requesting a hearing before the department of health and welfare to determine his liability to the obligee. The hearing, if requested, shall be held within thirty-five (35) days from the date of the initial notice to the claimant-obligor of the proposed set-off. No issues at that hearing may be considered

which have been litigated previously. The department of health and welfare shall issue its findings and decision either at the hearing or within ten (10) days of the hearing by mail to the claimant-obligor.

(iv) In its decision, the department of health and welfare may order the withholding and set-off of any subsequent benefits which may be due the claimant-obligor until the debt for which set-off is sought and any additional debts which are incurred by the claimant's failure to make additional periodic payments based upon the same court order are satisfied.

(c) Any amount deducted and withheld under paragraph (a) or (b) of this subsection shall be paid by the director to the appropriate state or local child support enforcement agency.

(d) Any amount deducted and withheld under paragraph (a) or (b) of this subsection shall for all purposes be treated as if it were paid to the individual as benefits and paid by such individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(e) For purposes of paragraphs (a) through (d) of this subsection, the term "benefits" means any compensation payable under this chapter, including amounts payable by the director pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the director under the provisions of this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(g) The term "child support obligation" is defined for the purposes of these provisions as including only an obligation which is being enforced pursuant to a plan described in section 454 of the social security act which has been approved by the secretary of health and human services under part D of title IV of the social security act.

(h) The term "state or local child support enforcement agency" as used in these provisions means any agency of this state or a political subdivision thereof operating pursuant to a plan described in paragraph (g) of this subsection.

(3) Benefits shall be paid only to the extent that moneys are available for such payments in the employment security fund.

(4) Benefits shall be paid not less frequently than biweekly.

(5) Upon request, the department of health and welfare, bureau of child support enforcement, shall make the procedures established in this section for collecting child support available to county prosecuting attorneys. The provisions of this subsection apply only if appropriate arrangements have been made for reimbursement by the requesting prosecuting attorney for the administrative costs incurred by the bureau, which are attributable to the request.

(6) (a) An individual filing a new claim for benefits shall, at the time of filing such claim, be advised that:

(i) Benefits are subject to federal and state tax and requirements exist pertaining to estimated tax payments; and

(ii) The individual may elect to have federal income tax deducted and withheld from the individual's benefits at the amount specified in the federal internal revenue code;

~~(iii) The individual shall be permitted to change a previously elected withholding status once during each benefit year.~~

(b) Amounts deducted and withheld from benefits shall remain in the unemployment fund until transferred to the taxing authority as a payment of income tax.

(c) The director shall follow all procedures specified by the United States department of labor and the federal internal revenue service pertaining to the deducting and withholding of income tax.

(d) Amounts shall not be deducted and withheld under this subsection until the following deductions are made and withheld in the following order:

(i) First, amounts owed for overpayments of benefits deducted and withheld pursuant to the provisions of section 72-1369, Idaho Code;

(ii) Second, amounts owed for child support obligations deducted and withheld pursuant to the provisions of subsection (2) of this section.

(e) At the director's discretion, the director may promulgate rules allowing individuals to elect to have state income tax deducted and withheld from the individual's payment of benefits.

Technical correction only, no associated administrative rule. This is subsection of code is outdated, from when claimants filed paper claims. With online claims now, claimants are able to change their preference at any time. For those claimants who require phone assistance, this is a simple update staff can make for customers.