

TITLE 32
DOMESTIC RELATIONS

CHAPTER 12
MANDATORY INCOME WITHHOLDING FOR CHILD SUPPORT

32-1201. STATEMENT OF LEGISLATIVE INTENT. The legislature of the state of Idaho finds that a significant number of people who are owed child support are not paid in accordance with the terms of their child support orders; and that income withholding is an effective remedy to insure compliance with child support orders. The following legislation is enacted to ensure that all child support orders will include in them the authority necessary to permit wage withholding. The legislation also includes provisions for the establishment of a support order to insure that all dependent children are adequately supported, regardless of the past or current marital status of the parents. This chapter shall be liberally construed to assure that all dependent children are adequately supported.

[32-1201, added 1986, ch. 222, sec. 1, p. 594.]

32-1202. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

- (1) "Business day" means a day on which state offices are open for regular business.
- (2) "Child support services" means support enforcement or collection and disbursement services.
- (3) "Current support" means the present month's required support pursuant to an order that is to be paid in increments, excluding amounts ordered to satisfy a delinquency.
- (4) "Delinquency" means the amount of unpaid support that has accrued from the date a child support order is entered or an amount due on a judgment for support for a prior period.
- (5) "Department" means the department of health and welfare.
- (6) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.
- (7) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.
- (8) "Duty of support" means the duty to provide for the needs of a dependent child, which may include the costs of necessary food, clothing, shelter, education, and health care including health insurance premiums for the child. The duty includes any obligation to make monetary payment, to pay expenses or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.
- (9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.
- (10) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes income to the obligor.
- (11) "Income" means any form of periodic payment to an individual, regardless of source, including, but not limited to, wages, salary, bonus,

commission, compensation for services rendered or goods sold, compensation as an independent contractor; and notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support obligations, specifically includes periodic payments pursuant to pension and annuity or retirement programs, or disability or insurance policies of any type, with the following exceptions:

(a) Unemployment compensation payments made under [chapter 13, title 72](#), Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section [72-1365](#), Idaho Code, and [chapter 12, title 7](#), Idaho Code;

(b) Worker's compensation payments made under [chapter 8, title 72](#), Idaho Code, shall be exempt from the provisions of this chapter, and shall only be withheld pursuant to the provisions of section [72-802](#), Idaho Code, and [chapter 12, title 7](#), Idaho Code;

(c) Public assistance payments made under [title 56](#), Idaho Code, shall be exempt from the provisions of this chapter.

(12) "Obligee" means any person, state agency or bureau entitled by order to receive child support payments or child and spousal support payments, or the person or agency to whom the right to receive or collect support has been assigned.

(13) "Obligor" means any person obligated by order to pay child or spousal support.

(14) "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.

(15) "Support order" means a judgment, decree, or order issued by a magistrate or district court of the state of Idaho creating a duty of support for a minor child, spouse or former spouse, as herein defined; or a judgment, decree, order or administrative ruling issued by a court or agency of competent jurisdiction in another state or country, creating a duty of support for a minor child, spouse or former spouse, as herein defined, which has been registered or otherwise made enforceable in this state.

[32-1202, added 1986, ch. 222, sec. 1, p. 594; am. 1993, ch. 335, sec. 1, p. 1244; am. 1993, ch. 335, sec. 8, p. 1255; am. 1994, ch. 308, sec. 4, p. 967; am. 1998, ch. 292, sec. 7, p. 936.]

32-1203. REMEDIES IN ADDITION TO OTHER REMEDIES. (1) The remedies provided in this chapter are in addition to, and not in substitution for, any other remedies provided by law.

(2) The provisions of this chapter apply to any dependent child, whether born before or after the effective date of this act, and regardless of the past or current marital status of the parents.

[32-1203, added 1986, ch. 222, sec. 1, p. 595.]

32-1204. NOTICE OF IMMEDIATE INCOME WITHHOLDING. (1) The court shall order income withholding in all support orders effective the date of the order unless an exception is granted by the court pursuant to subsection (2) of this section. All support orders shall notify the obligor that income withholding shall be enforced by a withholding order issued to the obligor's employer, without additional notice to the obligor.

(2) Immediate income withholding shall not be ordered if:

(a) One (1) of the parties demonstrates and the court makes a specific written finding that there is good cause not to require immediate income withholding. A finding of good cause by the court must be based on, at a minimum:

(i) A written determination and explanation of why implementing immediate withholding would not be in the best interests of the child; and

(ii) Proof of timely payment of previously ordered support in cases involving the modification of support orders; or

(b) A written agreement is reached between the obligor and obligee and the department in cases where the department is providing child support services, which provides for an alternative arrangement, and such agreement is determined by the court to be in the best interests of the child.

(3) Failure to provide for income withholding does not affect the validity of the support order.

[(32-1204), added 1986, ch. 222, sec. 1, p. 596; am. 1990, ch. 361, sec. 1, p. 974; am. 1993, ch. 335, sec. 2, p. 1246; am. 1993, ch. 335, sec. 9, p. 1256; am. and redesig. 1998, ch. 292, sec. 8, p. 937.]

32-1205. INCOME WITHHOLDING UPON A DELINQUENCY. If a support order does not include immediate income withholding, the obligor is subject to income withholding upon a delinquency at least equal to the child support payment for one (1) month, without the need for a judicial or administrative hearing.

[32-1205, added 1998, ch. 292, sec. 9, p. 939.]

32-1206. JUDICIAL PROCEEDINGS FOR INCOME WITHHOLDING. (1) A proceeding to enforce a duty of support is commenced:

(a) By filing a petition or complaint for an original action; or

(b) By motion in an existing action or under an existing case number.

(2) Venue for the action is in the district court of the county where the dependent child resides or is present, where the obligor resides, or where the prior support order was entered. The petition or motion may be filed by the obligee, the state, or any agency providing care or support to the dependent child.

(3) A filing fee shall not be assessed in cases brought on behalf of the state of Idaho.

(4) A petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the income withholding order, pursuant to section [32-1204](#) or [32-1205](#), Idaho Code, and:

(a) The name, address, and social security number of the obligor;

(b) A copy of the support order;

(c) The name and address of the obligor's employer;

(d) The amount of any delinquency; and

(e) In cases not filed by the state, whether the obligee has received public assistance from any source on behalf of the minor child, and, if so, from which source(s).

(5) Upon receipt of a petition or motion, the court shall issue an income withholding order pursuant to section [32-1204](#) or [32-1205](#), Idaho Code, to the employer utilizing the required income withholding for support form and shall provide a form for an answer to the income withholding order which shall be returned to the court within ten (10) days. The court shall also

order the employer to remit the amount withheld to the department of health and welfare within seven (7) business days after the date the amount would have been paid or credited to the obligor. The department shall supply each county with the required income withholding for support form and answers that comply with the rules promulgated by the department, and which include:

- (a) The maximum amount of current support, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement;
- (b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any; and
- (c) The amount of arrearage payments specified in the support order, if any.

(6) If the petition or motion indicates the obligee has received public assistance from any source on behalf of a minor child, the clerk shall immediately forward a copy of the petition or the motion to the department.

(7) The court retains continuing jurisdiction under this chapter until all duties of support of the obligor, including any delinquency, have been satisfied or until the order is otherwise unenforceable.

[32-1206, added 1986, ch. 222, sec. 1, p. 596; am. 1993, ch. 335, sec. 3, p. 1247; am. 1993, ch. 335, sec. 10, p. 1258; am. 1998, ch. 292, sec. 10, p. 939; am. 2013, ch. 248, sec. 1, p. 598.]

32-1207. ADMINISTRATIVE PROCEEDINGS FOR INCOME WITHHOLDING. Upon application by any obligee or obligor, the department may order income withholding pursuant to this chapter for payment of current support, any delinquency, and costs or fees pursuant to a support order as follows:

(1) If the support order provides for immediate income withholding pursuant to section [32-1204](#), Idaho Code, the department shall commence income withholding.

(2) If the support order does not provide for immediate income withholding, the department shall commence income withholding upon a delinquency, and shall also notify the obligor:

- (a) Of the amount of the delinquency owed and the amount of income withheld;
- (b) That the provision applies to all subsequent employers;
- (c) Of the right to request an administrative review; and
- (d) That the review is limited to mistakes of fact, which means an error in the amount of current support or delinquency, or the identity of the alleged obligor, and that no issues may be considered that have been litigated previously. If the obligor requests an administrative review within fourteen (14) days from the day the notice was mailed, the collection of arrears by income withholding shall be stayed. The department shall review the income withholding order within thirty-five (35) days, issue a decision and amend or void the income withholding order, if necessary. Any amounts which are found to have been withheld in error due to a mistake of fact will be returned to the obligor or credited towards the obligor's future payments.

[32-1207, added 1998, ch. 292, sec. 11, p. 941.]

32-1208. SERVICE OF INCOME WITHHOLDING ORDER IN A JUDICIAL PROCEEDING. (1) The following items and documents shall be served on the employer personally or by any form of mail requiring a return receipt:

(a) Two (2) conformed copies of the income withholding order, one (1) of which is for the employer, and one (1) for the obligor;

(b) Four (4) answer forms in substantial compliance with section [32-1210](#), Idaho Code;

(c) Three (3) stamped envelopes provided by the obligee and addressed to, respectively, the person or entity designated in the income withholding order, the obligee's attorney or the obligee, and the obligor.

(2) On or before the date of service of the income withholding order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the income withholding order to the obligor at the obligor's last known post-office address.

[[32-1208](#)], added 1986, ch. 222, sec. 1, p. 601; am. & redesig. 1998, ch. 292, sec. 12, p. 941.]

[32-1209](#). SERVICE OF INCOME WITHHOLDING ORDER IN AN ADMINISTRATIVE PROCEEDING. (1) The department shall send the income withholding order to the employer by certified mail.

(2) At the same time the withholding order is mailed to the employer, the department shall mail a copy of the income withholding order to the obligor at the obligor's last known post-office address.

[[32-1209](#), added 1998, ch. 292, sec. 13, p. 941.]

[32-1210](#). EMPLOYER'S DUTIES AND RESPONSIBILITIES -- FEE FOR EMPLOYER. (1) Upon receiving an income withholding order from the court, the employer shall answer the income withholding order on forms supplied with the income withholding order within ten (10) days after the date of service. The employer shall deliver the original answer to the court, and shall mail one (1) copy to the obligee or obligee's attorney, and shall deliver one (1) copy to the obligor as soon as is reasonably possible. The answer shall state whether the obligor is employed by or receives income from the employer, whether the employer will honor the income withholding order, and whether there are multiple child support income withholding orders or garnishments against the obligor. Upon receiving an income withholding order from the department, the employer shall begin income withholding pursuant to this section.

(2) If the employer possesses any income due and owing to the obligor, the income subject to the income withholding order shall be withheld immediately upon receipt of the income withholding order. The withheld income shall be delivered to the department of health and welfare within seven (7) business days after the date the amount would have been paid or credited to the employee.

(3) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent (50%) of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the support order, then the maximum amount to be withheld is the sum of the current support ordered and the amount ordered to be paid toward the arrearage, or fifty percent (50%) of the disposable earnings of the obligor, whichever is less. In no event shall the amount to be withheld from the earnings of the obligor exceed the amount specified in section [11-207](#), Idaho Code.

(4) When an employer receives an income withholding order issued by another state, the employer shall apply the income withholding law of the state of the obligor's principal place of employment in determining:

- (a) The employer's fee for processing an income withholding order;
- (b) The maximum amount permitted to be withheld from the obligor's income;
- (c) The time periods within which the employer must implement the income withholding order and forward the child support payment;
- (d) The priorities for withholding and allocating income withheld for multiple child support obligees; and
- (e) Any withholding terms or conditions not specified in the income withholding order.

(5) If an obligor is subject to two (2) or more income withholding orders for child support on behalf of more than one (1) obligee, the employer shall send the entire amount withheld from that obligor to the department. If the department is providing child support services, the employer shall send the department a copy of each income withholding order under which the obligor owes a support obligation. The department shall apportion the amount of income withheld between all obligees of the obligor as follows: the support obligation for the current month shall be paid first. If the amount of nonexempt disposable income withheld is not sufficient to pay the total support obligation for the current month for each obligee for whom there is an income withholding order, the amount withheld shall be divided between each obligee for whom there is an income withholding order on a pro rata basis. If the amount of the nonexempt disposable earnings withheld is in excess of the total support obligation for the current month for each obligee for whom there is an income withholding order, the excess shall be divided between each obligee for whom there is an income withholding order which includes withholding for any delinquency on a pro rata basis unless otherwise ordered by a court.

(6) The employer shall continue to withhold the ordered amounts from nonexempt income of the obligor until notified by the court or the department that the income withholding order has been modified or terminated. The employer shall promptly notify the court or the department when the employee is no longer employed, and of the employee's last known address, and the name and address of his new employer, if known.

(7) The employer may deduct a processing fee, not to exceed five dollars (\$5.00), to cover the costs of each withholding. Such fee is to be withheld from the obligor's income in addition to the amount withheld to satisfy the withholding order, but the total amount withheld, including the fee, shall not exceed fifty percent (50%) of the obligor's disposable income.

(8) The employer may combine amounts withheld from various employees for a particular entity in a pay period into a single payment for that pay period, as long as the portion thereof which is attributable to each individual employee is separately designated.

(9) An order for income withholding for support entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment, income withholding order, or garnishment for child support.

[32-1210, added 1986, ch. 222, sec. 1, p. 599; am. 1995, ch. 201, sec. 2, p. 693; am. 1998, ch. 292, sec. 14, p. 942; am. 2013, ch. 248, sec. 2, p. 599.]

32-1211. PENALTIES FOR EMPLOYERS. (1) An employer may not discharge, discipline, or refuse to employ an obligor on the basis of an income withholding order issued under this chapter. If an employer discharges, disciplines, or refuses to employ an obligor because of an income withholding obligation, the obligor shall have a cause of action against the employer. The employer shall be liable for double the amount of lost wages and other damages suffered as a result of the violation and for costs and reasonable attorney's fees, and may be subject to a civil penalty of up to three hundred dollars (\$300) for each violation. In addition, the employer may also be ordered to hire, rehire, or reinstate the aggrieved obligor.

(2) An employer who knowingly fails to retain and remit to the department an amount pursuant to the income withholding order shall be liable to the department for the amount to be retained specified in the income withholding order and may be subject to a fine of up to one hundred dollars (\$100), which is a debt due and owing to the department unless:

(a) The employer notifies the department that the obligor is not in his employ and the department verifies the obligor's nonemployment and withdraws its income withholding order; or

(b) The obligor's income is not sufficient and therefore the restrictions in section [11-207](#), Idaho Code, apply and a lesser amount must be withheld.

(3) No employer who complies with an income withholding order that is regular on its face shall be subject to civil liability to any individual or agency for conduct in compliance with the income withholding order.

[32-1211, added 1998, ch. 292, sec. 15, p. 944.]

32-1212. IDENTIFYING INFORMATION -- FILING WITH TRIBUNAL AND CHILD SUPPORT SERVICES. Obligors and obligees shall file with the court or the department, if the department is providing child support services, identifying information including social security number, residential and mailing address, telephone number, driver's license number, and name, address, and telephone number of their employer. Obligors and obligees shall provide written notification of any changes within thirty (30) days after such change.

[32-1212, added 1998, ch. 292, sec. 16, p. 944.]

32-1213. ORDER FOR PAYMENT OF MEDICAL EXPENSES. (1) A proceeding to enforce a support order directing the payment of medical expenses of a dependent child may be commenced as provided in section [32-1206](#), Idaho Code.

(2) The petition or motion may be filed by an obligee when medical expenses not otherwise covered by insurance have been incurred in the amount of one hundred dollars (\$100) or more, or when insurance premiums, deductibles, or payments on submitted claims for which payment or reimbursement is claimed to be due from the obligor equal or exceed one hundred dollars (\$100). The petition or motion shall include a sworn statement by the obligee, stating the facts authorizing the issuance of the order, including:

(a) An itemization of the medical expenses, including a specific reference to any insurance premiums, deductibles, or payments on submitted claims for which payment or reimbursement is sought from the obligor;

(b) Whether such expenses have been submitted to any applicable insurance carrier or other third party payer and the results of such submission;

(c) That the obligor, stating his or her name, residence and social security number has failed or refused to pay the medical expenses or to reimburse the obligee therefor;

(d) A description of the terms of the support order requiring payment of the medical expenses claimed to be due.

(3) Upon the filing of a petition or motion and affidavit containing the information required in subsection (2) of this section, the clerk of the court shall set a hearing thereon. The obligee shall serve a copy of the petition or motion, accompanying affidavit and notice of hearing on the obligor at least ten (10) days before the date set for hearing, by personal service or certified mail, pursuant to the Idaho rules of civil procedure.

(4) After hearing, the court shall enter its order directing payment of the specific sums, if any, for which the obligor is found to be liable for previously incurred medical expenses. In addition, if the court determines that some or all of the medical expenses of the dependent child are of an ongoing or recurring nature and the anticipated amounts thereof are capable of determination to the satisfaction of the court, the court may order payment to the obligee of a specific sum per month toward such expenses.

(5) For purposes of this section "medical expenses" means any and all costs and expenses related to the health care of a dependent child, including insurance premiums and any deductible amounts, all or a portion of which are ordered to be paid by the obligor in addition to any amount awarded as child support, pursuant to a support order.

[(32-1213), added 1992, ch. 265, sec. 1, p. 820; am. & redesig. 1998, ch. 292, sec. 17, p. 945.]

32-1214A. PURPOSE. The state of Idaho has an interest in ensuring that its children receive health insurance benefits through private means when available at reasonable cost as defined in section [32-1214B](#), Idaho Code. Therefore, the legislature hereby adopts the national medical support notice required by 42 U.S.C. section 666(a)(19) and the employee retirement income security act, 29 U.S.C. section 1169(a), to allow the department of health and welfare or an obligee to enforce an order for medical support.

[32-1214A, added 2003, ch. 304, sec. 2, p. 834; am. 2008, ch. 328, sec. 2, p. 900.]

32-1214B. DEFINITIONS. For the purposes of this chapter, the following definitions apply:

(1) "Child" means any child including an adopted minor child, of a participant in a health benefit plan, recognized under a medical child support order as having a right to enrollment under a health benefit plan.

(2) "Department" means the department of health and welfare.

(3) "Health benefit plan" means a group or individual health benefit plan or combination of plans, other than public assistance programs, that provides medical care or benefits for a child.

(4) "Insurer" means every person engaged as indemnitor, surety or contractor in the business of entering into contracts of insurance or annuity.

(5) "Medical child support order" means any order, including those that meet the requirements of 29 U.S.C. section 1169, or notice issued by either a court or administrative agency that requires a plan administrator, or if none, the employer, to enroll an eligible child in a health benefit plan.

(6) "Obligee" means a party or parent other than the parent ordered to carry or provide a health benefit plan for the parties' minor child.

(7) "Obligor" means the parent ordered by the court to carry or provide health insurance benefits for the parties' minor child.

(8) "Party" means the department, grandparent or any person who is the custodian, other than the parent who owes a duty of medical support.

(9) "Plan administrator" means a person or entity, designated under the terms of the health benefit plan or health insurance policy or related contract or agreement, responsible for the administration of plan duties. If no plan administrator is designated under the terms of the policy, contract or agreement, the plan administrator is the plan sponsor.

(10) "Plan sponsor" means an employer, employee organization, association, committee, joint board of trustees, or other similar group, including a state or local government agency or church, that establishes or maintains an employee benefit plan.

(11) "Reasonable cost" means the cost to the obligor does not exceed five percent (5%) of his or her gross income.

[32-1214B, added 2003, ch. 304, sec. 3, p. 834; am. 2005, ch. 101, sec. 1, p. 320; am. 2008, ch. 328, sec. 3, p. 900.]

32-1214C. MEDICAL SUPPORT ORDER. (1) A medical support notice issued to an employer or plan administrator is a qualified medical support order as defined by 29 U.S.C. section 1169(a) through (c).

(2) Upon receipt of a national medical support notice, if the employer has one (1) health benefit plan, the employer shall respond within twenty (20) business days and confirm that the child will be enrolled or explain that one (1) of the conditions identified in section [32-1214D](#), Idaho Code, exists. The employer shall provide the national medical support notice to the plan administrator within twenty (20) business days.

(3) Upon receipt of a national medical support notice from an employer, the plan administrator shall notify the department or other obligee within forty (40) business days that a health benefit plan will become available for the child, or explain that one (1) of the conditions identified in section [32-1214D](#), Idaho Code, exists. The plan administrator shall also notify the department or other obligee of any additional steps that need to be taken to complete enrollment. The plan administrator shall notify the department or other obligee when the notice has not been properly filled out, listing the specific deficiencies.

(4) If more than one (1) plan is available, the child shall be enrolled in the obligor's plan. If the obligor has not chosen a health benefit plan, the plan administrator or employer shall provide plan descriptions to the department or other obligee within twenty (20) business days. If the department is enforcing the medical support order, the department shall notify the other obligee of the opportunity to choose the health benefit plan within twenty (20) business days. If for any reason the other obligee does not or is not available to choose, the department shall choose the least expensive health benefit plan available to the obligor.

(5) The employer shall withhold any required premium from the obligor's income or wages. The amount to be withheld from the income of the obligor shall not exceed the amount specified in section [11-207](#), Idaho Code. The employer shall forward the premium withheld to the insurer. If the amount of income taken for child support along with the amount taken for medical sup-

port exceeds the amount specified in section [11-207](#), Idaho Code, child support shall be paid first.

(6) The plan administrator or employer shall provide the department or other obligee with the name of the insurer, the extent of coverage available and other necessary information, and shall make available any necessary claim forms or enrollment membership cards.

(7) An insurer shall not impose requirements on a state agency, which has been assigned the rights of an individual who is eligible for medical assistance, that are different than the requirements that apply to an agent or assignee of any other covered individual.

(8) A child covered by a qualified medical child support order, or the child's custodial parent, legal guardian, or the provider of services to the child, or a state agency to the extent assigned the child's rights, may file claims and the plan shall make payment for covered benefits or reimbursement directly to such party.

(9) An insurer shall not consider the availability or eligibility for medical assistance under medicaid, 42 U.S.C. section 1396a., in this or any other state when considering eligibility for health benefits or making payments under its plan. To the extent that payment has been made by medicaid, the department is subrogated to the rights of the individual to payment by any other third party for covered health care items or services.

[32-1214C, added 2003, ch. 304, sec. 4, p. 835.]

32-1214D. EXCEPTIONS TO REQUIREMENT FOR IMMEDIATE ENROLLMENT. The plan administrator or employer shall enroll the child unless the employer or insurer does not offer insurance, the obligor would not qualify for any plan, or the obligor has separated from employment. If insurance is not available because a probationary period exceeds ninety (90) days, the plan administrator or employer shall return the notice to the employer and the department without enrolling the child. If insurance is not available during a probationary period that is ninety (90) days or less, or if ninety (90) days or less remains from a longer waiting period, the plan administrator shall process the enrollment, and notify the employer, the department or other obligee, of the effective date of coverage.

[32-1214D, added 2003, ch. 304, sec. 5, p. 836.]

32-1214E. PROHIBITION ON DENIAL OF ENROLLMENT. A child shall not be denied enrollment in a health benefit plan because:

- (1) The child was born out of wedlock;
- (2) The child is not claimed as a dependent on the obligor's federal income tax return;
- (3) The child does not reside with the obligor or in the insurer's service area; or
- (4) There is no current enrollment season.

[32-1214E, added 2003, ch. 304, sec. 6, p. 836.]

32-1214F. NOTICE OF MEDICAL SUPPORT ORDER. Any support order or decree that requires a child to be covered by a health benefit plan issued after July 1, 2003, shall include a statement in substantially the following form:

"Failure to provide medical insurance coverage may result in the direct enforcement of a medical support order by either the obligee

or the Department of Health and Welfare. A national medical support notice will be sent to your employer, requiring your employer to enroll the child in a health benefit plan as provided by Sections [32-1214A](#) through [32-1214J](#), Idaho Code, and applicable rules of the department."

[32-1214F, added 2003, ch. 304, sec. 7, p. 837.]

32-1214G. AUTHORITY OF THE DEPARTMENT. The department of health and welfare shall have the authority to promulgate rules necessary to implement and enforce orders for medical insurance. The rules shall provide the obligor an opportunity to protest the issuance of the national medical support notice based on mistake of fact.

[32-1214G, added 2003, ch. 304, sec. 8, p. 837.]

32-1214H. NOTICE OF INTENT TO ENFORCE. If the order for health benefits fails to provide for direct enforcement, the department or other obligee may serve a written notice of intent to enforce the order on the obligor by mail or personal service. If the obligor fails to provide written proof that health benefits have been obtained or applied for within twenty (20) business days of service of the notice, or within twenty (20) business days of health benefits becoming available, the department or other obligee may proceed to enforce the order directly by sending the notice prescribed by section [32-1214C](#), Idaho Code.

[32-1214H, added 2003, ch. 304, sec. 9, p. 837.]

32-1214I. DISENROLLMENT. The plan administrator or employer shall not disenroll or eliminate health benefits of any such child unless:

- (1) A certified copy of an order terminating the obligation to provide health benefits is provided to a plan administrator or employer;
- (2) Confirmation has been received by the plan administrator or employer that the child is enrolled in another comparable health benefit plan;
- (3) The employer has eliminated family health benefit plans for all of its employees;
- (4) The obligor has separated from employment;
- (5) The child is no longer eligible for coverage under the terms of the plan; or
- (6) The required premium has not been paid by or on behalf of the child.

[32-1214I, added 2003, ch. 304, sec. 10, p. 837.]

32-1214J. NOTICE OF TERMINATION OF COVERAGE. The plan administrator or employer shall notify the department or other obligee within twenty (20) days when health benefits are no longer available and state the reason why.

[32-1214J, added 2003, ch. 304, sec. 11, p. 838.]

32-1215. TERMINATION OF INCOME WITHHOLDING UPON OBLIGOR'S REQUEST. (1) An obligor whose income is subject to withholding under this chapter may request a hearing to quash, modify, or terminate the withholding, by filing a motion requesting such relief before the court which issued the income withholding order. A copy of the motion and a notice of hearing shall be served

upon the obligee in the time and in the manner provided by the Idaho rules of civil procedure.

(2) In a hearing to quash, modify, or terminate the income withholding order, the court may grant relief only upon a showing by the obligor that there is a substantial probability that the obligor would suffer irreparable injury and that the obligee would not suffer irreparable injury. Satisfaction by the obligor of any delinquency subsequent to the issuance of the income withholding order is not grounds to quash, modify, or terminate the income withholding order.

(3) If an income withholding order has been in operation for twelve (12) consecutive months and the obligor's support obligation is current, the court may terminate the order upon motion of the obligor, unless the obligee can show good cause as to why the income withholding order should remain in effect.

(4) No order to quash, modify, or terminate an income withholding order shall be issued unless the obligor provides proof to the court that the obligee has been served with a copy of the motion and notice for hearing in the time and in the manner provided by the Idaho rules of civil procedure, or that service is impossible because the obligee has moved and failed to provide the court with a current address, as required by section [32-1212](#), Idaho Code.

[32-1215, added 1998, ch. 292, sec. 19, p. 948; am. 2007, ch. 2, sec. 1, p. 3; am. 2011, ch. 33, sec. 1, p. 76.]

32-1216. TERMINATION OR MODIFICATION OF INCOME WITHHOLDING UPON OBLIGEE'S REQUEST. The court may quash, modify or terminate an income withholding order upon written request therefor by the obligee, unless the court finds that the termination would not be in the best interests of the dependent child.

[32-1216, added 1998, ch. 292, sec. 20, p. 948.]

32-1217. TERMINATION OF INCOME WITHHOLDING BY THE COURT IN A JUDICIAL PROCEEDING. If the department is unable to deliver payments under the income withholding order for a period of three (3) months due to the failure of the obligee to notify the department of a change of address, the court shall terminate the income withholding order, and shall mail a copy of the termination order to the employer and to the obligor. The court shall return all undeliverable payments to the obligor.

[32-1217, added 1998, ch. 292, sec. 21, p. 949; am. 2007, ch. 2, sec. 2, p. 4.]