

## North Dakota Department of Human Services

# NORTH DAKOTA CHILD SUPPORT ENFORCEMENT LEGAL REQUIREMENTS FOR INCOME PAYERS LUMP SUM REPORTING

### What lump sums must be reported?

An income payer must notify the North Dakota Child Support Enforcement (ND CSE) program before making any lump sum payment to an obligor if:

- the lump sum to be paid to an obligor is \$1,000 or more and
- the income payer has received an income withholding order from ND CSE that includes an amount for past-due support.

### What is a lump sum?

Lump sum payments include:

- pay in lieu of vacation or other leave and
- bonuses, commissions, and any other payments to an obligor.

Lump sum payments do not include:

- periodic payments made on regular paydays as compensation for services,
- reimbursement for expenses incurred by the obligor on behalf of the income payer,
- severance pay, or
- advances.

### How will the information about lump sums be used?

To satisfy a child support obligation of the obligor, ND CSE may initiate a deduction order, execution, garnishment, attachment, or other legal process regarding the lump sum payment.

### When can the income payer release the lump sum to the obligor?

The income payer cannot release any portion of a lump sum payment that must be paid to satisfy an income withholding order issued by ND CSE.

#### First one-half of the lump sum

An income payer who reports a lump sum payment to ND CSE may initially release no more than one-half of the payment to the obligor.

#### Second one-half of the lump sum

The income payer may not release the second one-half of the payment to the obligor until whichever of the following happens first:

- thirty days have passed since the income payer notified ND CSE about the lump sum or
- ND CSE gives the income payer written authorization to pay the obligor the second one-half of the payment.

**NOTE:** The income payer may not release the second one-half of the payment to the obligor if ND CSE has notified the income payer that a deduction order, execution, garnishment, attachment, or other legal process has been initiated.

**Who is an income payer?**

An income payer is any person, partnership, firm, corporation, limited liability company, association, political subdivision, or department or agency of the state or federal government owing income to an obligor and includes an obligor if the obligor is self-employed.

**Who is an obligor?**

An obligor is any person owing a duty of support.

**Why can I release some lump sum payments, but not others?**

In some child support cases, the only enforcement action taken by ND CSE is to issue the income withholding order. In other cases, ND CSE provides a higher level of enforcement activities, which can include taking a portion of the lump sum payment (beyond what is needed to comply with the income withholding order) to satisfy the arrearage. When ND CSE is notified of a lump sum payment, we determine at that point whether further enforcement is appropriate.

**If ND CSE authorizes me to release a lump sum payment, why do I need to keep reporting future payments to the same obligor?**

The obligor or the family entitled to support can ask for a higher level of enforcement at any time. Thus, even if the case is currently being enforced through income withholding only, additional enforcement activity may be appropriate when the next lump sum payment is made.

**Does state law require income payers to report lump sums to ND CSE?**

Yes. Refer to North Dakota Century Code §14-09-09.34.

**What happens if an income payer does not report a lump sum?**

Failure to comply with these requirements may subject an income payer to contempt of court, attorney's fees, and late fees.

**How does an income payer report a lump sum? Who does an income payer contact with questions regarding lump sum reporting?**

An income payer may report the lump sum or direct questions to the local CSE office that issued the income withholding order or to the ND CSE program. The ND CSE website [www.childsupportnd.com](http://www.childsupportnd.com) provides a complete listing of contact information.

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