

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 110 INCOME WITHHOLDING

8.50.110.1 ISSUING AGENCY: New Mexico Health Care Authority - Child Support Services Division.
[8.50.110.1 NMAC - Rp, 8.50.110.1 NMAC, 12/30/2010; A, 7/1/2024]

8.50.110.2 SCOPE: To the general public. For use by the Title IV-D agency and recipients of Title IV-D services.
[8.50.110.2 NMAC - Rp, 8.50.110.2 NMAC, 12/30/2010; A, 1/1/2022]

8.50.110.3 STATUTORY AUTHORITY: Public Assistance Act, Section 27-2-27 et seq., NMSA 1978. The health care authority (HCA) is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.). Section 9-8-1 et seq. NMSA 1978 establishes the health care authority as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.50.110.3 NMAC - Rp, 8.50.110.3 NMAC, 12/30/2010; A, 1/1/2022; A 7/1/2024]

8.50.110.4 DURATION: Permanent.
[8.50.110.4 NMAC - Rp, 8.50.110.4 NMAC, 12/30/2010]

8.50.110.5 EFFECTIVE DATE: December 30, 2010, unless a later date is cited at the end of a section.
[8.50.110.5 NMAC - Rp, 8.50.110.5 NMAC, 12/30/2010]

8.50.110.6 OBJECTIVE: To provide regulations in accordance with federal and state laws and regulations.
[8.50.110.6 NMAC - Rp, 8.50.110.6 NMAC, 12/30/2010]

8.50.110.7 DEFINITIONS: [RESERVED]
[See 8.50.100.7 NMAC]

8.50.110.8 INCOME WITHHOLDING: State and federal laws require the Title IV-D agency to obtain an immediate income withholding in all Title IV-D cases.

A. The Title IV-D agency complies with 45 CFR § 303.100 by ensuring that payments for support, including lump sum payments, are made by immediate income wage withholding.

B. Although the Support Enforcement Act provides for a good cause exemption to immediate wage withholding and a procedure to avoid immediate income withholding, the Title IV-D agency will not stipulate or agree to such provisions. The party requesting to avoid wage withholding bears the burden of proof on this issue with the court.

(1) The Title IV-D agency will comply with any valid court or administrative order that prohibits wage withholding.

(2) If an obligor receives an exemption to wage withholding and later accrues a delinquency, the Title IV-D agency, in its discretion, may pursue wage withholding from the appropriate judicial or administrative authority.

(3) Wage withholding will commence immediately upon issuance of the notice of income withholding. The notice shall inform the obligor that he or she has 30 days from the date of the notice to contest or appeal the income withholding.

[8.50.110.8 NMAC – Rp, 12/30/2010; A, 7/1/2019; A, 1/1/2022]

8.50.110.9 TERMINATION OF INCOME WITHHOLDING: The Title IV-D agency will not terminate an income withholding once instituted, unless:

A. the support obligation terminates and all arrears are paid off; or

B. the court orders that income withholding cease; or

C. the Title IV-D agency closes its case pursuant to 8.50.129 NMAC.

[8.50.110.9 NMAC - Rp, 8.50.110.15 NMAC, 12/30/2010; A, 1/1/2022]

8.50.110.10 WITHHOLDING OF UNEMPLOYMENT COMPENSATION: A cooperative endeavor exists between the Title IV-D agency and the New Mexico department of workforce solutions for the withholding of unemployment benefits in those cases with an income withholding order pursuant to federal and state laws.
[8.50.110.10 NMAC - Rp, 8.50.110.16 NMAC, 12/30/2010; A, 1/1/2022]

8.50.110.11 WITHHOLDING OF WORKMAN'S COMPENSATION: A cooperative endeavor exists between the Title IV-D agency and the New Mexico workers' compensation administration for the withholding of workman's compensation benefits in those cases with an income withholding order pursuant to federal and state laws.
[8.50.110.11 NMAC, 1/1/2022]

History of 8.50.110 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD CSEB 501.1100, State and Local Requirements, 6/23/1980.

ISD CSEB 561.0000, Procedures for Enforcement, 6/23/1980.

ISD CSEB 564.0000, Collection by IRS, 6/23/1980.

ISD CSEB 564.0000, Collection by IRS, 3/7/1984.

ISD CSEB 565.0000, U.S. District Court Enforcement, 6/23/1980.

ISD CSEB 566.0000, Voluntary Wage Allotments of Federal Employees and Processing of Garnishment Orders for Child Support and/or Alimony, 11/3/1981.

NMAC History:

8 NMAC 5.CSE.000 through 8 NMAC 5.CSE.970, 12/30/1994.

History of Repealed Material:

8 NMAC 5.CSE, Child Support Enforcement - Repealed effective 5/31/2001.

8.50.110 NMAC, Income Withholding, filed 5/14/2001 - Repealed effective 12/30/2010