



U.S. Department of Health and Human Services

Administration for Children & Families

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Section 459 of the Social Security Act (the Act) provides for the garnishment of certain Federal payments to satisfy obligations for child support. A chart titled **Garnishment of Federal Payments for Child Support Obligations** is attached as a reference. It contains information regarding different payment types and authority citations.

QUESTION 1: What moneys are subject to garnishment from Federal employee pay?

RESPONSE 1: A Federal employee's compensation is subject to garnishment for child support payments with the exception of amounts listed under section 459(h)(2) of the Act. Compensation that is subject to garnishment includes wages, salary, commission, bonus, pay, allowances (including severance pay, sick pay, and incentive pay).

QUESTION 2: Are worker's compensation and other benefits subject to garnishment?

RESPONSE 2: Yes, benefits subject to garnishment include worker's compensation benefits paid or payable under Federal or State law, benefits paid or payable under the Railroad Retirement System, and special benefits for certain World War II veterans payable under title VIII of the Act.

QUESTION 3: Are Federal pensions, retirement or retired pay, and annuities subject to garnishment?

RESPONSE 3: Yes, benefits subject to garnishment include periodic benefits (including a periodic benefit as defined in section 228(h)(3) of the Act) or other payments under any system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by any individual. Section 228(h)(3) of the Act defines the term "periodic benefit" as a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.

QUESTION 4: Can child support be withheld from the pay of members of the uniformed services?

RESPONSE 4: Yes, moneys for the personal service of an obligor in the uniformed services are subject to garnishment; however, this does not include allowances for members of the uniformed services payable pursuant to chapter 7 of title 37, United States Code, as prescribed by the Secretaries concerned (defined by section 101(5) of such title) as necessary for the efficient performance of duty. Restrictions also apply for certain allowances and stipends. The attached chart outlines the payments to a member of the uniformed services that are subject to garnishment in 5 CFR §581.103(b) as well as the payments that are not subject to garnishment per §581.104(h)(2).

QUESTION 5: Are title II benefits subject to garnishment? (Title II refers to Federal old-age, survivors, and disability insurance benefits established under title II of the Act.)

RESPONSE 5: Yes, benefits subject to garnishment include periodic benefits (including a periodic benefit as defined in section 228(h)(3) of the Act) or other payments under the insurance system established by title II of the Act. In addition, benefits subject to garnishment include periodic benefits (including a periodic benefit as defined in section 228(h)(3) of the Act) payable under any other system or fund established by the United States which provides for the payment of pensions, retirement or retired pay, annuities, dependents' or survivors' benefits, or similar amounts payable on account of personal services performed by the individual or any other individual.

QUESTION 6: Are Federal "Black Lung" benefits subject to garnishment?

RESPONSE 6: Yes, benefits subject to garnishment include periodic benefits (including a periodic benefit as defined in section 228(h)(3) of the Act) or other payments under any Federal program established to provide

"black lung" benefits. A benefit as defined by 20 CFR §410.110(b) means the black lung benefit provided under part B of title IV of the Act to coal miners, to surviving widows of miners, to the surviving child or children of a miner, or of a widow of a miner; to the surviving dependent parent or parents of a miner, and to the surviving dependent brother(s) or sister(s) of a miner.

QUESTION 7: Are Veteran benefits subject to garnishment?

RESPONSE 7: Certain benefits are subject to garnishment including periodic benefits (including a periodic benefit as defined in section 228(h)(3) of the Act) or other payments by the Secretary of Veterans Affairs as compensation for a service-connected disability paid by the Secretary to a former member of the Armed Forces who is in receipt of retired or retainer pay if the former member has waived a portion of the retired or retainer pay in order to receive such compensation. Regulations under 5 CFR §581.103(c)(7) indicate that in such cases, only that part of the Department of Veterans Affairs payment that is in lieu of the waived retired pay or waived retainer pay is subject to garnishment.

In addition, as stated in 5 CFR §581.104(b) payments or portions of payments made by the Department of Veterans Affairs pursuant to sections 501–562 of title 38 of the United States Code, in which the entitlement of the payee is based on non-service-connected disability or death, age, and need are not subject to garnishment. Furthermore, 5 CFR §581.104 (f) indicates that education and vocational rehabilitation benefits for veterans and eligible persons under chapters 30, 31, 32, 35, and 36 of title 38, United States Code, and chapters 106 and 107 of title 10, United States Code are not subject to garnishment.

Benefits payable under title VIII of the Act, "Special Benefits for Certain World War II Veterans" are subject to garnishment. Every individual who is a qualified individual under title VIII section 802 of the Act shall, in accordance with and subject to the provisions of title VIII, be entitled to a monthly benefit paid by the Commissioner of Social Security for each month after September 2000 (or such earlier month, if the Commissioner determines is administratively feasible) the individual resides outside the United States. Except as otherwise provided in title VIII, a qualified individual has: (1) attained the age of 65 on or before the date of the enactment of this title; (2) is a World War II veteran; (3) is eligible for a supplemental security income benefit under title XVI for—(A) the month in which this title is enacted; and (B) the month in which the individual files an application for benefits under this title; (4) whose total benefit income is less than 75 percent of the Federal benefit rate under title XVI; (5) who has filed an application for benefits under this title; and (6) who is in compliance with all requirements imposed by the Commissioner of Social Security under this title, shall be a qualified individual for purposes of this title.

QUESTION 8: Are moneys paid as compensation for death under any Federal program subject to garnishment when the beneficiary is the noncustodial parent?

RESPONSE 8: Yes, section 459(h)(1)(A)(ii)(III) of the Act permits moneys paid as compensation for death under any Federal program to be collected to pay child support. Please refer to Q&A 5 for the exception to this.

QUESTION 9: Are Social Security Income (SSI) benefits subject to garnishment?

RESPONSE 9: No. Supplemental Security Income (SSI) for the aged, blind, and disabled pursuant to title XVI of the Social Security Act are not subject to garnishment; see 5 CFR §581.104(j).

RELATED REFERENCES: Section 459 of the Act, 5 CFR §581.103 and §581.104, PIQ-90-11, AT-93-07, PIQ-06-01

cc: ACF/OCSE Regional Program Managers

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