



*New York State  
Unified Court System  
25 Beaver Street  
New York, New York 10004*

*A. Gail Prudenti  
Chief Administrative Judge*

212-428-2120

June 22, 2012

To: Justices of the Supreme Court  
Supreme Court Chief Clerks and Court Attorney Referees

From: A. Gail Prudenti *AGP*

Re: Revised Forms for Use in Child or Spousal Support Cases in Supreme Court

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In conformity with recent legislative changes and federal directives, and upon the recommendation of the Matrimonial Practice Advisory Committee, the attached Administrative Order (Exh. A) (1) revises five Uncontested Divorce Forms; (2) repeals the Income Deduction Order; (3) revises the Instructions to the Uncontested Divorce Packet; (4) prescribes the new Income Withholding for Support Form and the Numbered Reference Copy for use in both Uncontested Matrimonial Actions and in any action involving child or spousal support in Supreme Court; and (5) prescribes, for use in Supreme Court, a new set of Generic Instructions for Income Withholding Order/ Notice of Support, Application for Child Support Enforcement Services, and NYS Case Registry Form.

Briefly, the revisions are as follows:

- The Income Withholding Order and accompanying instructions, required by the federal Action Transmittal AT-11-05 (issued by the U.S. Department of Health and Human Services Administration for Children and Families in May 2011) (Exh. B), has been substituted for the current Income Deduction Order. It must be utilized in all non-IV-D child support proceedings, as the Action Transmittal directs employers to reject and send back any form that does not conform to the approved federal form. (A recent Law Journal article by John Aman, Deputy Chief Support Magistrate for Courts outside New York City, describing the new Income Withholding Order, is attached as Exh. C.
- The revised instructions to the Uncontested Divorce Packet provides instructions on completing the new Income Withholding Order/ Notice for Support by reference to the Numbered Reference Copy, as well as more complete instructions about applying for child support enforcement services and filling out the NYS Case Registry Filing Form.
- A new set of Generic Instructions for Income Withholding Order/ Notice of Support,

Application for Child Support Enforcement Services, and NYS Case Registry Form is prescribed for use in Supreme Court.

- Corrections have been made to the NYS Case Registry Form for use in Supreme Court to clarify that (1) this form, rather than the Order, should be sent to the NYS Case Registry at an address approved by OTDA in Albany in all non-IV-D child support cases; (2) OTDA has indicated no order is to be filed unless specifically requested.; and (3) full social security numbers are to be used without redaction as required by OTDA.
- Revisions to Uncontested Divorce Forms UD-6 (Plaintiff's Affidavit) and UD-7 (Defendant's Affidavit) have been made to clarify that (1) the statutory references in DRL 240(1)(a) to income deduction orders refer to the new Income Withholding Order; and (2) the UD-8a Form (Support Collection Unit Information Sheet) directing payments through the Support Collection Unit must be sent to the Support Collection Unit only when support services are requested, not declined.
- Form UD-8a of the Uncontested Divorce Packet forms (Support Collection Unit Information Sheet) has been revised at OTDA's request to make clear in Field 10 that payments will be made *to the Support Collection Unit for the benefit of* the custodial parent and/or a third party.
- A correction has been made to the Uncontested Divorce Judgment of Divorce Form UD-11 regarding the address of the NYS Child Support Processing Center in Albany for cases where payment is to be made through the Support Collection Unit.

The Unified Court System's Uncontested Divorce Packet Instructions and Forms are posted on the UCS Divorce Resources website at <http://www.nycourts.gov/divorce/forms.shtml>. Instructions and forms for use in Supreme Court cases involving child or spousal support are posted at <http://www.nycourts.gov/divorce/childsupport/>.

Questions about the forms and instructions may be directed to Susan Kaufman, Counsel to the Matrimonial Practice Advisory Committee, at 914-824-5541 ([Skaufma1@courts.state.ny.us](mailto:Skaufma1@courts.state.ny.us)) or to Peter Sorrento, Coordinating Matrimonial Court Clerk, at 212-428-2140 ([PSORRENT@courts.state.ny.us](mailto:PSORRENT@courts.state.ny.us)).

cc.: Hon. Lawrence Marks  
Hon. Fern A. Fisher  
Hon. Michael V. Coccoma  
Ronald Younkings, Esq.  
Hon. Edwina Richardson-Mendelson  
Hon. Sharon Townsend  
Administrative Judges  
Chief Clerks of the Family Courts  
Susan Kaufman, Esq.  
Peter Sorrento

**EXHIBIT A**

**ADMINISTRATIVE ORDER OF THE  
CHIEF ADMINISTRATIVE JUDGE**

Pursuant to the authority vested in me pursuant to Judiciary Law § 212, I hereby prescribe the following revised forms for inclusion in the Unified Court System Uncontested Divorce Packet for use in undefended matrimonial actions pursuant to 22 NYCRR §§ 202.21(i) and 202.50, effective May 31, 2012:

- Instructions rev. 5/12
- Affidavit of Plaintiff (Form UD-6) rev. 5/12
- Affidavit of Defendant (Form UD-7) rev. 5/12
- Support Collection Unit Information Sheet (Form UD-8a) rev. 5/12
- NYS Case Registry Filing Form for Use in Supreme Court rev. 4/12
- Judgment of Divorce (Form UD-11) rev. 5/12

I further prescribe the following new forms for inclusion in the Unified Court System Uncontested Divorce Packet for use in undefended matrimonial actions pursuant to 22 NYCRR §§ 202.21(i) and 202.50, and for use in all other actions in Supreme Court involving child or spousal support, effective May 31, 2012:

- Income Withholding for Support (6/2012)
- Income Withholding for Support (with numbered paragraphs) (6/2012)

I further repeal the following form formerly included in the Unified Court System Uncontested Divorce Packet for use in undefended matrimonial actions pursuant to 22 NYCRR §§ 202.21(i) and 202.50, effective May 31, 2012:

- Income Deduction Order

I further prescribe for continued use the following existing forms currently included in the Unified Court System Uncontested Divorce Packet:

- Notice of Automatic Orders
- Notice Concerning Continuation of Health Care Coverage
- Summons With Notice (Form UD-1)
- Summons (to be served with Verified Complaint) (Form UD-1a)
- Verified Complaint (Form UD-2)
- Affidavit of Service (Form UD-3)
- Sworn Statement of Removal of Barriers to Remarriage (Form UD-4)
- Affidavit of Service (Form UD-4a)
- Affirmation (Affidavit) of Regularity (Form UD-5)
- Child Support Worksheet (Form UD-8)
- Qualified Medical Child Support Order ("QMCSO") (Form UD-8b)
- Note of Issue (Form UD-9)
- Findings of Fact/Conclusions of Law (Form UD-10)
- Part 130 Certification (Form UD-12)

- Request for Judicial Intervention("RJI") (Form UD-13)
- Addendum (Form 840M)
- Notice of Entry (Form UD-14)
- Certificate of Dissolution of Marriage
- Self-Addressed and Stamped Postcard
- UCS-111 (UCS Divorce and Child Support Summary Form)
- DRL 255 Addendum
- Notice of Settlement
- Poor Person Order
- Affidavit in Support of Application to Proceed as a Poor Person.

I further prescribe the following forms for use in Supreme Court actions involving child or spousal support:

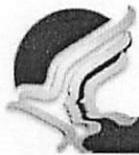
- Generic Instructions for Income Withholding Order/ Notice of Support, Application for Child Support Enforcement Services, and NYS Case Registry Form) (6/2012).

  
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Chief Administrative Judge of the Courts

Dated: June 22, 2012

AO/ 420 /12

**EXHIBIT B**

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U.S. Department of Health and Human Services

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THE OFFICE OF CHILD SUPPORT ENFORCEMENT

Giving Hope and Support to America's Children

**ACTION TRANSMITTAL****AT-11-05****DATE:** May 16, 2011**ATTACHMENTS:** [OMB 0970-0154 Form Final](#)[OMB 0970-0154 Form Instructions Final](#)[Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit](#)**TO:** State and Tribal Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Individuals**SUBJECT:** Revised Income Withholding for Support (IWO) Form

**BACKGROUND:** Statutory requirements under sections 466(a)(1), (a)(8) and 466(b)(6) of the Social Security Act (the Act) require the use of the Income Withholding for Support (IWO) form in all IV-D cases, and in non-IV-D cases with orders initially issued in the state on or after January 1, 1994. The interim final rule issued on February 9, 1999 [64 FR 6237] implemented section 466(b)(6)(A)(ii) of the Act requiring the use of the OMB-approved IWO form (OMB 0970-0154) [see 45 CFR 303.100(e)(1)]. Private firms, attorneys, and courts authorized under state law to issue IWOs must use the OMB-approved IWO form for all child support income withholding by employers. We urge states to review their income withholding procedures and state plan pre-print pages 2.12-1, 2.12-8, and 2.12-8B to ensure compliance with the income withholding requirements.

Tribes that operate IV-D programs (i.e., child support programs established in accordance with Title IV-D of the Act) are required to use the IWO form. This requirement was established with the publication of the Final Rule for Tribal Child Support Enforcement Programs on March 30, 2004 [69 FR 16638].

**Changes to the IWO Form**

Comments were solicited for revisions to the IWO form via the Federal Register on June 30, 2010 [75 FR 37816]. The IWO form and instructions were updated for consistency and clarity in light of numerous comments suggesting changes. Key changes include:

- **Elimination of shading:** Shading of sections in the existing IWO form causes problems when it is faxed to employers/income withholders. Vital information is obscured, requiring employers to contact states to resend the form. We removed the shading in the IWO.
- **Requirement of underlying order:** We reworded the note on page one to clarify that if the employer or income withholder receives this document from someone other than a state or tribal child support agency or a court, a copy of the underlying order containing a provision authorizing income withholding must be attached.
- **Remittance identifier:** To prominently display the remittance identifier, we moved it to page one above the case and order identifier. This will ensure employers/income withholders are using the remittance identifier when submitting payments.
- **Checkbox for employer returns:** We added a checkbox on page two of the form for the employer to indicate that the IWO is being returned because it does not direct payments to the State Disbursement Unit (SDU) or the IWO is not regular on its face. Instructions for this box are located on page two of the form, under "Payments to SDU".
- **Employment termination section:** We expanded the notification of employment termination section to include change in income status.
- **Instructions to reject and return invalid IWOs:** We provided guidance in the instructions to the form that indicate the circumstances under which an IWO must be rejected and returned to sender.

**Approach for Improving the Income Withholding Process**

As stated in DCL-10-14, the federal Office of Child Support Enforcement convened a group of employers, members of the judiciary, and state and federal child support representatives to discuss items that could be addressed to improve the income withholding process and to develop an approach for implementing the improvements. We carefully considered the comments received as we developed the following approach to improve the income withholding process.

**IWOs issued on or after 05/31/11 (i.e., new IWOs)**

1. If the IWO is not directed to the SDU as required by federal law [section 454B of the Act] then the employer should reject the IWO and return it to the sender, effective immediately.
2. If the employer receives a document to withhold income that is not issued on the OMB-approved IWO form as required by federal law (section 466(a)(8) and 466(b)(6)(A)(ii) of the Act) then the employer must reject the document and return it to the sender, effective 05/31/12.

**IWOs issued before 05/31/11 (i.e., IWOs already processed by employer)\***

1. If the IWO is not directed to the SDU as required by federal law (section 454B of the Act) then the employer should contact the state child support enforcement (CSE) agency in the state that issued the underlying support order on a case-by-case basis to request a revised IWO directing payment to the SDU. The state may use procedures under section 466(c)(1)(E) of the Act, upon providing notice to the obligor and obligee, to direct the obligor or other payor to change the payment destination to the SDU. The employer should continue to send payments to the non-SDU address until the state CSE agency or sender issues a revised IWO directing payment to the SDU.
2. If income withholding is not issued on the OMB-approved IWO form as required by federal law (section 466(a)(8) and 466(b)(6)(A)(ii) of the Act) and the order presents a problem for the employer (i.e., insufficient information to process the IWO) or the order has been modified, then the employer should contact the sender to request an OMB-approved IWO form. The employer should continue withholding income until a new OMB-approved IWO form is received.

\*Please note: If the underlying support order meets any of the following criteria, then there is no requirement for states to process income withholding payments through the SDU:

1. support order initially issued in the state before January 1, 1994 and has never been modified; or
2. support order initially issued in the state before January 1, 1994 and has no arrearages; or
3. support order initially issued in the state before January 1, 1994 and is not associated with a IV-D case.

Attached is a copy of the revised Income Withholding for Support (IWO) form, as required by sections 452(a)(11), 454(9)(E), 466(a)(1), (a)(8) and 466(b)(6) of the Act. Also attached are the instructions to the revised form. The Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit question and answer document is attached to clarify federal requirements regarding the income withholding process.

**SUPERSEDED MATERIAL:** AT-07-07, AT-04-05, AT-01-07, AT-98-03

**REFERENCES:** AT-97-12, AT-97-04

**EFFECTIVE DATE:** States, tribes, and others should begin using this form immediately. States that need additional time to implement use of the IWO form are directed to continue to honor previous forms until 05/31/12, when the requirement for states to use the OMB-approved IWO form must be implemented. The form and instructions are available at <http://www.acf.hhs.gov/programs/cse/forms/>.

**INQUIRIES:** Please contact your ACF/OCSE Regional Program Manager if you have any questions.

Sincerely,

Vicki Turetsky  
Commissioner  
Office of Child Support Enforcement

cc: ACF/OCSE Regional Program Managers  
Tribal IV-D Directors

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**EXHIBIT C**

The New York Palace  
455 Madison Avenue  
New York, NY 10022

Thursday, June 28, 2012  
6:00-7:00 p.m. Cocktail Reception  
7:00-10:00 p.m. Dinner & Presentation



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## Significant Changes on Child Support Income Withholding Order

John J. Aman

New York Law Journal

05-08-2012

Practitioners in the child support courts or those who even occasionally intersect with the child support world probably know that there are three ways in which child support can be paid. First, in those cases where there is a high degree of cooperation between the child support obligor and the child support obligee, the support can be made payable directly from obligor to obligee with no court or administrative agency involved in the transfer of the support payments. Included in this grouping would be any type of direct deposit that the obligor might create to facilitate the payment to the obligee.

Second, the child support can be payable by way of the New York State Child Support Enforcement Program, more specifically the local Support Collection Unit (SCU). Payment through the SCU is often the tool of choice. Not only does state law<sup>1</sup> mandate SCU involvement when the custodial parent desires same, but SCU involvement is accompanied by a number of useful collection techniques, including a mandatory income execution (unless good cause is found by the court to not enter same) for collection of the current care obligation, and a number of automated methods to collect arrears.

The latter would include specific add-on amounts from wages and federal and state income tax interceptions to collect arrears, automatic suspension of driving privileges at four months of arrears, execution of property, and reporting of arrears to the U.S. Department of Health and Human Services for the purpose of passport seizure. It can be estimated that perhaps 90 percent of Family Court cases are payable through the SCU. All payments are sent to a central payment processing center in Albany, which acts as a fiscal agent for the SCU.

The third way that support can be paid is by private Income Deduction Order (IDO) or Income Withholding Order (IWO). By this method an employer is instructed to withhold from the obligor's income (from each paycheck) a specific amount to fulfill the current care support obligation (and a specific amount to fulfill an arrears obligation, if any exists) and to send those monies directly to the obligee. This method, while somewhat infrequently used, can fill a special niche.

For instance, perhaps the obligee does not wish to use the services of the SCU. Perhaps the obligor has had long-time employment and is likely to remain there and the parties feel the employer to obligee process is a better fit. Perhaps the parties, with the court's involvement, want to tailor the payment of arrears to a particular schedule that better fits the needs of the litigants.<sup>2</sup> Perhaps the order is for spousal support or maintenance only, one that the SCU is not empowered by statute to handle. For those and perhaps other reasons, the parties may choose the private IWO.<sup>3</sup>

However, significant changes have been made in regards to the issuing of the IWO. From a practical standpoint, most of the time these IWOs are issued by the court. However, CPLR §5241(b)(1) provides that the IWO can be issued by, in addition to the court and the support collection unit, the attorney for the child support obligee as an officer of the court. Further, even if the court ultimately issues the IWO, the court may ask counsel to prepare the order. Thus, it is necessary that the practitioner fully understand the implications of the changes.

On May 16, 2011, the Health and Human Services Department, Administration for Children and Families, issued [Action Transmittal AT-11-05](#)—two brief but concise pages that tell the practitioner all that is needed to know. In a nutshell, the federal government has mandated that effective May 31, 2011 (it is duly noted that that date has passed), if support payments are to be made by way of the

IWO, these payments must be directed to be sent by the employer first to the child support payment processing center in Albany. The processing center will record the payment, and place the check in an envelope addressed to the obligee. In these cases the SCU does not provide any enforcement or other services.

Further, for all IWOs issued after May 31, 2012, a new prescribed federal IWO form must be used and the payments must be directed to the Albany address. Use of the wrong form could cause the employer to return the IWO to the sender without honoring it. Failure to comply with either of these directions would delay payment to the obligee.

This article will explore all of this in a bit more depth. The goal is to anticipate the practitioner's questions and to provide answers.

#### Two Steps

First, it is clear that AT-11-05 requires two distinct steps. The first step is that the IWO must instruct that payments be sent to the payment processing center in Albany by the employer, not directly to the obligee. The second step requires that the new federal IWO form be used.

The prudent practitioner should similarly approach this in a two-step fashion. First, the practitioner must presently ensure that any new IWOs that require deduction from income that either are issued by the practitioner as counsel, or are issued by the court, whether they are on the old or new form, direct that the support payments go to the Albany address. That address is: New York State Child Support Processing Center, P. O. Box 15365, Albany, N.Y. 12212-5365. Secondly, in addition to having the payments directed to the Albany address, the practitioner must start using the new form, this at least by May 31, 2012. The practitioner should obtain the form, put it on the office computer, and begin to become conversant with its use.

A question might be asked about 'old income deduction orders' that are out there now, issued before the May 31, 2011, effective date, that are already processed by the employer, and that do not direct payment to the Albany address. In these cases the employer is instructed to contact the issuer of the 'old IDO' on a "case to case basis" to request a revised IWO directing the payment to the Albany address. The employer is instructed to continue to send payments to the obligee directly until the matter has been remedied. Thus far, there have not been many employers making contact due to this deficiency. It can likely be concluded that employers will continue to send the monies on, unless they have a particular problem in a particular case. It is more important that the practitioner be concerned with future compliance.

All of this may raise a number of concerns. One is that there certainly exist now IWOs, issued either by counsel or the court after May 31, 2011, again already processed by the employer, that do not direct payments to the Albany address as mandated. In these cases, employers have been instructed to reject the IWOs that do not direct the payments to the Albany address, and return them to the sender. These are of more concern than the pre-May 31, 2011 'old IDOs,' although there has not yet been a general return of these. Thus, the practitioner might decide to take no action presently on these, unless the practitioner learns of a particular problem. The necessary changes can then be made. Again, it should be noted that these IWOs need not yet be on the new form.

A second concern would be IWOs issued after May 31, 2012, that are not on the new federal form. In these cases the employer has been instructed to reject IWOs issued after May 31, 2012, that do not direct payments to the Albany address and are not on the new form. These will be returned to the sender for compliance.

There is information available on all of this. The practitioner might start by reading the Action Transmittal, AT-11-05. This can be accessed by searching "AT-11-05" in Google or directly at the federal Office of Child Support Enforcement website (<http://www.acf.hhs.gov/programs/cse/courts.html> (click on 'policy,' and then click on 'Action Transmittals,' and then click on 'AT-11-05')). Again, this is a two-page document which clearly states what needs to be done.

#### OCA and Federal

The IWO form itself will be promulgated by the Office of Court Administration and available on the Office of Court Administration website. Until then the practitioner can go directly to the federal site: [www.acf.hhs.gov/programs/cse/poi/AT/2004/at-04-05.htm](http://www.acf.hhs.gov/programs/cse/poi/AT/2004/at-04-05.htm) to view and download the IWO form. There are actually two sets of instructions for the IWO. The first are the instructions issued by the federal government with the form and accessible on the site referenced above. The second set of instructions, issued by the state Office of Child Support Enforcement and which are intended to clarify some specific New York state issues on the IWO form, will soon be available on the OCA website.

It should further be noted that when OCA first looked at the IWO form and reviewed the mandates regarding it, it was thought that it might make sense to make some cosmetic changes in order to make it look more like a New York order. However, based upon further discussions with the federal government, it was learned that changes in the IWO form were not permitted. Thus, the practitioner must use the IWO form just as it is, without changes.

If the support obligation is now, or in the future will be, payable through the SCU, the practitioner need not do anything different. The SCU will use the correct form.

Finally, the practitioner may be aware that the SCU does not have authority to establish a collection account if the obligation is for spousal support or maintenance only. These obligations were frequently in the past collected by an IWO. That can still happen. However, the federal government has made it clear that these spousal or maintenance only orders still must use the IWO form and payments still must be sent through the Albany address.

#### Conclusion

All of this is not, by the way, brand new. The entire process has been in development for a number of years. The rationale behind it is to streamline the process for employers so that employers across the country will only deal with one form and have just one address

in each state to which an employer must send support payments. Perhaps the practical effect of all of this is that practitioners dealing with child support only obligations or child support and spousal/maintenance mixed obligations will review with the obligee whether or not to apply for child support enforcement services and the obligee will now often choose to use the SCU for collection. It can be argued that the IWO may be an endangered species.

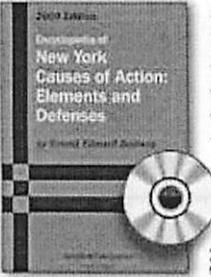
So the last word to the practitioner is to make certain to stop using the old IWO form from today forward. The courts are already in the midst of making the changes. If previously issued IWOs come back and are not being honored, the practitioner now knows what changes are necessary and why.

*John J. Aman is a support magistrate in Erie County, deputy chief support magistrate for the State of New York and a member of the Office of Court Administration Family Court Advisory and Rules Committee.*

**Endnotes:**

1. Civil Practice Law and Rules §5242 (c)(1).
2. SCU regulations do not permit this.
3. 'IWO' is the term that the federal government uses and the term that will hereafter be used.

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