

Manual: Personnel
Chapter Series CC--Commissioned Corps Personnel Manual
Part 2--Commissioned Corps Personnel Administration

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service

Chapter CC22--Pay and Allowance Administration
Subchapter CC22.7--Collections and Deductions
Personnel INSTRUCTION 5--Child Support and Alimony Obligations

CONTENTS

<u>Section</u>	<u>Subject</u>	<u>Page</u>
A.	Purpose and Scope.....	1
B.	Authority.....	2
C.	Responsibilities.....	2
D.	Pay Subject to Garnishment.....	3
E.	Pay and Allowances Not Subject to Garnishment.....	4
F.	Stopping Voluntary Allotments.....	4
G.	Exemptions.....	4

Section A. Purpose and Scope

1. This INSTRUCTION establishes the conditions under which collections are made from the pay of commissioned officers of the Public Health Service (PHS) for enforcement of child support and/or alimony payments as required by court order.
2. For information concerning the levy on pay and allowances for enforcement of child support obligations under the program for Aid to Families with Dependent Children, refer to Subchapter CC22.7, Personnel INSTRUCTION 4.

Section B. Authority

Garnishment of pay for child support or alimony payments as provided in this INSTRUCTION is authorized under 42 U.S.C. 659. Executive Order 12105 dated December 19, 1978, delegates authority to the Office of Personnel Management (and Secretary of Defense) to promulgate regulations for uniform implementation of the statute. These regulations are included in the Code of Federal Regulations (5 CFR 581) which are published in Subchapter CC42.7, INSTRUCTION 1, of this Manual.

Section C. Responsibilities

1. The office listed below has been designated by regulations (see Section B, above) as the office responsible for receiving and processing all summonses and complaints, or writs of garnishment or attachment concerning PHS commissioned officers.

Garnishment Agent
Office of the General Counsel
Office of the Secretary
Department of Health and Human Services
Room 5362--North Building,
330 Independence Avenue, S.W.,
Washington D. C. 20201
Telephone Number (202) 472-3109

2. Once a process has been served on the United States and the summons and complaint, or writ of garnishment or attachment has been received by the Garnishment Agent, he/she will:
 - a. Notify the Commissioned Personnel Operations Division (CPOD), Office of Personnel Management (OPM), Office of Management (OM), to temporarily suspend payment of sufficient pay due the officer named as the defendant in the summons and complaint, or the writ of garnishment or attachment, so as to permit compliance with such summons or writ.
 - b. Notify the officer and, where appropriate, his/her supervisor of the garnishment or attachment proceedings and explain its potential effect on his/her pay, including allotments. Such notice will comply with any additional requirements for notice in the garnishment or attachment law of the State in which the proceeding is brought.
 - c. Determine from CPOD the amount of pay due the officer.

- d. Determine whether the law on garnishment or attachment of the State in which the proceeding was brought exempts any portion of the pay due the officer named as primary defendant. If appropriate, such exemption will be applied to the amount of pay determined due such officer.
- e. Determine whether the officer owes a specific amount of money to the United States. If such officer owes a specific amount, such amount will be set off against the amount of pay determined to be subject to court ordered garnishment or attachment. The following types of indebtedness may be set off:
 - (1) Amounts required to satisfy prior advance of pay and allowances;
or
 - (2) Amounts required to satisfy prior overpayments of pay and allowances; or
 - (3) Administratively determined indebtedness.
- f. Where required, file an answer to the summons and complaint in the State or Federal court in which the proceeding was brought and answer any interrogatories regarding the pay and allowances due the officer.
- g. Issue notice to CPOD to pay the amount of pay determined to be due and subject to garnishment or attachment, as ordered, to the person designated by the court in which the garnishment or attachment proceeding was brought.

Section D. Pay Subject to Garnishment

Enforcement of child support and/or alimony obligations are made pursuant to a decree, order, or judgment issued by a court of competent jurisdiction. Except as stated in Section G.2, below, all monies due active duty officers, the entitlement to which is based upon remuneration for employment, are subject to court ordered garnishment or attachment. Entitlement to the following items of pay is based upon remuneration for employment:

1. Basic pay;
2. Special pays;
3. Incentive pay;
4. Accrued leave payments (basic pay portion only); and
5. Retired pay.

Section E. Pay and Allowances Not Subject to Garnishment

Monies due active duty officers, the entitlement to which is not based upon remuneration for employment, are not subject to court ordered garnishment or attachment. Entitlement to the following items of pay and allowances is not based upon remuneration for employment:

1. Basic allowance for quarters;
2. Basic allowance for subsistence;
3. Overseas station allowances, including education allowances for dependents;
4. Variable housing allowance;
5. Travel and transportation allowances, including dislocation allowances;
6. Family separation allowances;
7. Uniform allowances; and
8. Unpaid pay and allowances at death, including death gratuity.

Section F. Stopping Allotments

Voluntary allotments will be stopped as necessary to comply with a writ of garnishment or attachment. When possible, the officer will be allowed to determine the allotments to be stopped. If the officer involved refuses to or is unable to advise which allotment should be stopped, CPOD will stop allotments as necessary. Insurance allotments will not be stopped until all others have been stopped.

Section G. Exemptions

1. All pay due active duty and retired officers as listed in Section D, above is subject to court ordered garnishment or attachment, except when exempted by the law of the State in which the proceeding is brought. State law also determines whether such items of pay earned in the future are subject to garnishment or attachment, or whether only the pay due on the date process is served on the United States is subject to court ordered garnishment or attachment.

2. The following deductions must be satisfied before any deductions are made for child support and/or alimony:
 - a. Federal Income Tax Withholding;
 - b. Federal Insurance Contribution Act;
 - c. Servicemen's Group Life Insurance;
 - d. Retired Serviceman's Family Protection Plan; and
 - e. Survivor Benefit Plan.