

# Child Support and the CARES Act FAQ

## Definitions

CARES Act – The Coronavirus Aid, Relief, and Economic Security Act signed into law on March 27, 2020, to provide fast and direct economic assistance to Americans.

Title IV-D Case - A child support case in which your child support order is being enforced by the state child support agency, Division of Child Support Services (DCSS).

Non-IV-D Case – A child support case in which DCSS is not involved.

## Federal Stimulus Checks and Child Support Arrearages

Generally speaking, unless your child support order is being enforced by DCSS your federal stimulus check will not be intercepted for child support arrears.

### **1. Will the federal stimulus rebate payments be subject to child support collections like federal tax refunds (Federal Tax Refund Offset program)?**

Yes, if your child support order is being enforced by DCSS. Federal law requires child support agencies to have procedures to collect past-due child support from federal tax refunds. In the federal stimulus bill, the CARES Act, Congress did not exempt the stimulus rebate payments from offset for child support arrears.

### **2. If I owe child support, will my federal stimulus rebate payment be applied to my child support arrears?**

Maybe. Federal law and regulations determine when federal payments are intercepted and applied to child support arrears.

### **3. If I owe child support, will I be notified that my federal stimulus rebate payment is going to be applied to my child support arrearage balance?**

Yes. You are sent an annual notice when your case is submitted for federal tax refund offset. The federal government should send an offset notice to you when your stimulus rebate payment has been intercepted. The notice will tell you that your stimulus rebate payment has been applied to your child support debt and to contact DCSS if you believe this was done in error.

**4. What if I am married to someone who owes child support arrears, will my federal stimulus rebate payment be applied to the child support arrears my spouse may owe?**

The payment will likely be intercepted, if you filed a joint return. However, if you do not owe child support, but you are married to someone who owes child support, you may file an Injured Spouse Claim and Allocation—Form 8379. Please visit [www.irs.gov](http://www.irs.gov) for additional filing instructions.

**5. If I am the parent receiving child support, will I receive any money from a stimulus rebate payment intercepted by the federal government from the paying parent on my case?**

Maybe. Federal law dictates how monies received by DCSS under the Federal Tax Refund Offset Program are distributed. The amount of the money you are entitled to receive will depend on several factors, including the amount of the stimulus rebate payment intercepted, the amounts owed to you in your case, and the number of other child support cases in which the paying parent owes child support arrears.

If you have additional questions, please go to <https://des.az.gov/dcss>

## **Financial Hardship Related to COVID-19 and Temporary Modification of Child Support**

**1. How do unemployment insurance benefits relate to child support collections?**

- Unemployment insurance benefits are considered income for the purposes of child support, so child support will be withheld from your benefits in a case being enforced by the state child support agency.
- The CARES Act makes several changes to the availability of unemployment insurance benefits, including increasing availability to those who are self-employed or contract workers, those previously ineligible for state unemployment benefits, and those who have exhausted their benefits. For information regarding who qualifies and applying for the expanded benefits, visit: [https://des.az.gov/sites/default/files/media/UI\\_Extension\\_CARES\\_Act.pdf?time=1586544490050](https://des.az.gov/sites/default/files/media/UI_Extension_CARES_Act.pdf?time=1586544490050).
- Before seeking to modify your child support order, you should obtain information on what unemployment insurance benefits will be available to you.

**2. Can a parent request that a child support order be modified because they were terminated or furloughed from their employment?**

Maybe. A parent who receives child support may want to increase the child support obligation due to loss of employment. Likewise, a parent who pays child support may wish to reduce the child support obligation for the same reason. Whether either parent is entitled to a modification of the child support obligation depends on several factors.

- a. Both parents' income determines the child support obligation. To determine either parent's income, Arizona's Child Support Guidelines require the inclusion of unemployment benefits received, along with any other source of income. See [guidelines](#) section 5A. The parent who has lost income due to unemployment should obtain a determination of benefits from DES as the court will need that information to determine if a modification is warranted.
- b. Childcare expenses also affect the child support obligation. A parent who has lost income due to unemployment may no longer need childcare.
- c. Medical insurance expenses also affect the child support obligation. A parent who has lost employment may have also lost medical insurance for the child. In such cases, the parents should work together to obtain insurance.

**3. How do I determine if I am entitled to a modification of the child support obligation?**

Go to Arizona's 2020, [Child Support Calculator](#). Enter all relevant information. Make sure the information is correct, as noted in question #1. Once all information is entered, the calculator will indicate the presumptive obligation. If the presumptive obligation varies by more than 15% from the current order, you may file a request for temporary modification of child support. If the loss of employment also caused the loss of medical insurance for your child, you may file a motion for temporary modification. If the presumptive obligation does not vary by more than 15% from the current obligation and you did not lose medical insurance for the children, you are not entitled to a temporary modification.

**4. If I qualify for a temporary modification of child support, how do I file?**

All modifications are determined by the superior court that issued the current order. You must file a request for temporary modification and send a copy to the other parent. If your child support case is being enforced by DCSS, you must also notify the Arizona Attorney General.

**Child Support Modification Forms (Simplified)**

[Superior Court in Maricopa County](#)

[Superior Court in Pima County](#)

If you do not live in either of these two counties, please ask the Clerk of the Superior Court in your county about forms.

**5. If I receive a temporary modification of child support, when does it become effective?**

By law, modifications can only be effective the first day of the month after you file the motion and give notice to the other parent. You cannot ask the court for modification for a date earlier than the date following the filing of the motion and notice to the other parent.

**6. What if I was furloughed, so I still have a job, but my hours have decreased?**

You would still determine the temporary child support obligation in the manner outlined in question #3. Your income would be the decreased pay you receive.

**7. If I was furloughed with reduced hours, how does this effect my income withholding order with my employer?**

The income withholding order remains in place, and your employer is obligated to withhold child support per the order unless the court modifies the order. Your employer may withhold a lesser obligation if the withholding would exceed 50% of your net income. However, that does not change the child support order, and any shortage would be deemed arrears. If you want to modify your child support order temporarily, you must file a motion with the court, as outlined above.

**8. If I get a temporary modification of child support, how long does it last?**

It is a temporary modification, and it lasts for the time period set by the court. As a temporary order, it can be vacated at any time by the court. To avoid claims for arrears or overpayments, once one or both parents return to normal earnings and the need for the temporary order ends, the parties must notify the court.

If you need assistance, you may contact the Division of Child Support Services at:

<https://des.az.gov/dcss>

## **Employers and Income Withholding Orders**

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), enacted on March 27, 2020, is designed to encourage Eligible Employers to keep employees on their payroll, despite experiencing economic hardship related to COVID-19, with an employee retention tax credit (Employee Retention Credit). See FAQs:

<https://www.irs.gov/newsroom/faqs-employee-retention-credit-under-the-cares-act>

**1. Does my company still have to honor an income withholding order if the employee is being maintained under CARES?**

Yes. The compensation is viewed as income to the employee, and the income withholding order requires the company to withhold the appropriate amount of income for child support. Arizona law requires that a company may only withhold up to 50% of the employee's net disposable earnings each month.

**2. Does my company still have to honor an income withholding order if the employee is furloughed to reduced or part-time hours?**

Yes. Until modified based on the reduced hours, the income withholding order is still valid subject only to the requirement that the company may only withhold up to 50% of the employee's net disposable earnings each month.

**3. Does my company still have to honor non-child support withholding orders (e.g. garnishments) if the employee is furloughed to reduced or part-time hours?**

Yes. All court-ordered withholding orders remain in effect. Except when an IRS tax lien was served before the date the child support order was entered, federal and state laws require child support withholding to take priority over all other income attachments. You must withhold the required amount if the amount does not exceed 50% of the employee's net disposable earnings. An Order/Notice for child support has priority against any attachment, execution, or other assignment.

**4. Can my company encourage an employee to seek a temporary modification of child support?**

Yes. Temporary modification of child support may be necessary, and the employee can get information regarding how to modify child support here.

**Child Support Modification Forms (Simplified)**

[Superior Court in Maricopa County](#)

[Superior Court in Pima County](#)

If your employee does not live in either of these two counties, please direct them to the Clerk of the Superior Court in their county to ask about forms.