



CCPA-69

January 9, 1978

This is in reply to your letter of October 26, 1977, regarding the recent amendments to Title III (The Federal Wage Garnishment Law) of the Consumer Credit Protection Act. Your questions are answered in the same order as presented.

Question. Is it correct that a court order for child support or alimony must be reduced to a specified amount; a judgment obtained; and a garnishment issued?

Answer. The amount of a court order for child support or alimony is limited by the restrictions provided by section 303(b)(2) of the amended Act, copy enclosed. The restrictions on garnishment provided by section 303(a)(1) and (2) do not apply in the case of any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and which is subject to judicial-review. Accordingly, unless otherwise provided by State law, the support order need not be in the form of a writ of garnishment issued pursuant to a judgment. The amount of the order would depend upon the application of the percentage restrictions or a lesser percentage might be applied should the court deem such to be appropriate.

Question. Is it true that such a garnishment provides for a deduction by the employer of 50% of the disposable earnings (60% if he is not supporting another family) instead of the 25% or excess over 30 times the minimum wage as in other garnishments?

Answer. Yes. The Act sets maximum percentage restrictions, however, a garnishment order or court order for support may be in a lesser amount.

Question. Does the "support" garnishment take precedence over an existing garnishment against the same individual?

Answer. It is our opinion that support orders take precedence over non-support garnishment orders.

Question. Is there a bulletin which explains the procedures that an employer must follow upon receipt of such an order, i.e., a simple form or checklist for an employer to use?

Answer. The Department does not issue a bulletin which explains the procedures of all of the States that must be followed upon receipt of a support order. However, it may be that such information can be obtained from the Commerce Clearing House, Inc., which has in the past published a Handbook on Assignments and Garnishments.

Question. Does the new amendment mean that employers of this Country will now become the administrators or collectors for child support and alimony, thereby assuming the responsibilities normally delegated to the courts and its employees?

Answer. No. The new amendments are limited to sections 303 (b)(1)(A), 303(b)(2)(A) and (B), and 305. Accordingly, the amendments have no affect on procedures in effect prior to the amendments.

Wage-Hour Publication 1324 is being revised to reflect the new amendments as well as amendments to the minimum wage requirements of the Fair Labor Standards Act.

Sincerely,

Xavier M. Vela
Administrator