

What to do About a License Suspension Notice from Child Support Enforcement

Introduction

The Division of Child Support (DCS) may suspend licenses of parents who are behind in their child support payments. The law allows DCS to suspend any license issued by the State of Washington, including drivers' licenses, hunting licenses, fishing licenses, professional licenses and contractor or occupational licenses.

What is a Notice of Suspension?

The suspension process is started by DCS sending written notice, called a "Notice of Suspension," to the parent who's behind in child support payments. The notice informs the parent that s/he isn't in compliance with a child support obligation and that DCS intends to suspend his/her license(s). A parent is "not in compliance" with a child support obligation when behind 6 months or more in child support payments. This means the parent has either not paid child support in the last six months or more, or owes a total amount equal to or more than six months worth of payments.

DCS cannot suspend a parent's license for non-compliance if the parent is in jail or prison and has no financial resources available, is receiving TANF, SSI or other public assistance income, or is a WorkFirst Participant who doesn't receive a cash grant.

What should I do if I receive a Notice of Suspension?

If you receive a Notice of Suspension, you must respond within twenty (20) days of the date you receive the Notice to avoid suspension of your license.

There are four different responses you can make to the Notice of Suspension:

1. You can request an administrative hearing (called a "fair hearing"); or
2. You can contact DCS in writing or in person and agree on a payment schedule; or
3. You can file a Petition for Modification with the Court or administrative agency where the child support order was entered and inform DCS that you've done so (if a Petition for Modification is pending at the time you receive the Notice of Suspension, you should notify DCS of this and provide a copy of the Petition); or
4. You can ask for a DCS Conference Board review.

These responses are discussed in greater detail below.

Remember: if you fail to respond within 20 days of receiving the Notice of Suspension, your license will be suspended! If possible, consult an attorney for help in determining which response is best for you.

1. Request a Fair Hearing

Ask for a fair hearing in writing by sending a letter to the Office of Administrative Hearings (OAH) at P.O. Box 42488, Olympia, WA 98504.

An "administrative law judge" (or "ALJ") will preside over the hearing, and a DCS representative will be present. You may present evidence and question the DCS representative at the hearing.

There are only five issues that you may bring up to the Administrative Law Judge (ALJ) to stop the license suspension. These are:

1. you're not the parent who owes child support;
2. there's no valid child support order;
3. you've paid the support as required by the order;
4. you're not six months behind in making payments;
5. you've made a "good faith effort" to comply with the support order.

The ALJ can decide whether you've made a "good faith effort" to comply based on your payment history, ability to pay, and efforts to find and maintain gainful employment.

After the hearing, the ALJ will make a written decision.

If the ALJ decides that you're not in compliance AND that you haven't made a good faith effort to comply, then your license will be suspended.

If the ALJ decides that you're not in compliance but you did make a good faith effort to comply, then s/he can set up a payment plan for you. The ALJ must take into consideration the following in setting up the payment plan:

- the amount of your arrearages;
- the amount of the current support order;
- your earnings; and
- the needs of all the children who rely on you financially.

So if you plan to ask the ALJ at your hearing to set up a payment plan for you, you must bring with you to the hearing information about the things listed above.

2. Contact DCS to Make Payment Arrangements

If you contact DCS in writing within 20 days of the day you receive the notice,

license suspension will be postponed for up to 30 days to give you a chance to make an agreement with DCS on a payment schedule. The payment agreement must include timely payments of current support plus a reasonable payment schedule for paying off back support owed. DCS must consider your financial circumstances and the needs of all the children you support. If you believe that the DCS representative isn't being reasonable, ask to speak with a supervisor. If this doesn't work, you may request a Conference Board review (see below).

If an agreement is signed, then your license won't be suspended. If no agreement is reached, DCS will suspend your license.

3. Modify the Support Order

It may be possible for you to lower the amount of child support you're ordered to pay each month. This is called "modifying" your support order. The court or an ALJ may allow your request to lower child support if your circumstances have changed since the child support order was entered. Example: if you've become disabled or had an involuntary decrease in income. It can also be lowered if the previous order was entered by default, meaning that you didn't make an appearance (file any written response or appear in court to present your position) when child support was set. Generally, only future child support may be changed. Back child support may be changed in very limited circumstances and may require the help of a lawyer.

If your support is based on a court order, you must ask that same court to modify it. This is called a "petition for modification of child support." A do-it-yourself packet that includes all the court forms you need is available from DCS. You may also obtain a modification packet by calling legal services. Or you may be able to get a lawyer to help you. Call the legal services

number at the end of this publication to find out.

If your support was set by DCS, it may be changed by a new ALJ hearing. DCS has forms available to request a modification hearing by an ALJ. If you don't know whether your support order was set by a court or DCS, ask DCS to send you a copy of the order.

DCS has a duty to help you modify your child support if your circumstances justify a modification. To apply for this help, contact the DCS support enforcement officer who's handling your case.

4. Ask for a Conference Board Review

A Conference Board review is an informal hearing to resolve grievances with DCS. Some matters that can be addressed by a Conference Board can't be decided anywhere else, such as a grievance about a DCS worker, request for deferrals, review of payroll deductions that cause hardship, or a request for a charge-off or waiver (a decision not to collect). Conference Board decisions are made in writing. They can't be appealed to a court.

A Conference Board may agree to "charge-off" (not collect) child support arrears owed to DSHS if collection would cause you "substantial hardship." The Conference Board may decide to accept a partial lump-sum payment in place of collecting all of the unpaid support, or they may write off the entire debt to DSHS if collection would cause substantial hardship to children living with you.

Examples of what may be considered "substantial hardship" include:

- you and the child for whom you owe support are re-united;
- you're disabled and receive disability payments;
- payment of arrears interferes with your ability to pay current child support;
- you have limited earning potential.

What can I do to get my license back if it's already suspended?

If your license has been suspended because you owe child support, you must sign a repayment agreement with DCS (or pay off the entire debt) in order to get your license back. Call DCS to ask about signing a repayment agreement.

In setting a repayment amount, DCS will look at your income and expenses, including expenses of caring for any dependent children. You must provide DCS with complete information about your financial situation, including any extra expenses you may have, such as medical costs or costs of caring for a child who's disabled.

DCS may require you to pay the first installment due under your repayment agreement before releasing your license. You must continue to make your payments when due under the repayment agreement. If you fail to make timely payments, your license can be suspended again.

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