

Support Issues and Considerations in Military Divorce Cases

Brentley Tanner
Sullivan & Tanner, P.A.
Raleigh, NC



“Legal Assistance Office” or Ofc of the Staff Judge Advocate

Target Practice!



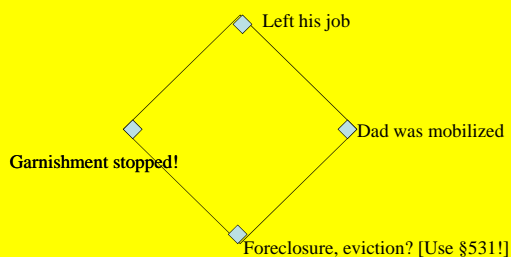
Setting Your Sights on the SCRA...

When one parent is mobilized...

- Will garnishment continue?
- What about rent (eviction?) or mortgage payments (foreclosure?)
- Let's see how this works...



HELP! What happened to my child support?



Deployment Child Support Issues

- Problems, questions...
 - Restarting the garnishment
 - Same amount?
 - Where send the notice & motion?
 - Locating, AND
 - Serving the other side!



Deployment Child Support Issues

- Problems, questions... for the SM:
 - *Should I move for a STAY?*
 - *I want to request child support reduction -- How can I participate?*



Military Support Regulations:

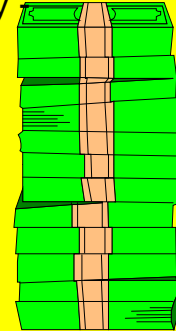
- USAF: no amount specified; "a civil matter"
- All other services establish an amount
- Materials show the rules for Army, Navy, Marines and Coast Guard
- Use this when immediate response is needed, no time for court order



Military Pay

Base pay

- Military base pay by rank and TIS (Time in Service) (every 2 years)
- DFAS website: www.dfas.mil, Go to "Military Members"

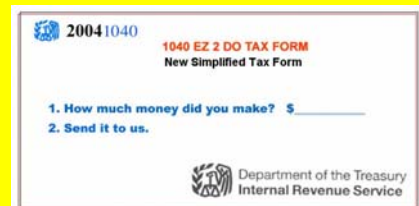


- Allowances:
Amt increases with rank
- **BAH:**
Basic Allowance for Housing
 - **BAS:**
Basic Allowance for Subsistence



BAH & BAS -

- These two allowances are non-taxable
- All compensation in a combat zone is non-taxable



- Special Skills Pay:
 - flight pay
 - hazardous duty
 - sea, submarine duty
 - etc.
- Bonuses (lump sum, usually for re-enlisting)

A Short Course in...

How to Read an LES
[Leave-and-Earnings Statement]

Leave-and-Earning Statement

DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND SAVINGS STATEMENT											
ID	NAME (Last, First, MI)	SOC. SEC. NO.	GRADE	PAY RATE	VEY PVT	SEAS	BRANCH	ADSR/CDR	PERIOD COVERED	SUMMARY	
ENTITLEMENTS		DEDUCTIONS		ALLOWANCES							
Type	Amount	Type	Amount	Type	Amount	-AME PWD		-00			
BAS PAY	4151.00	FEDERAL DEDS	284.11	DISCRETIONARY AIT	529.00	-THM BNS		4,191.88			
BAS	1189.00	FICA-MD-UNEMPLOY	82.22			-THM AIT		441.14			
		BASIC PAY 200,000	14.00			-AME AIG		535.00			
		DEPTAL	21.22			-AME AIG		4,985.27			
						-CV PWD		-00			
						-SDM Pay		4,985.27			
TOTAL		4,985.27		441.84		441.84		529.00			

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Base Pay + BAS + BAH = Total Entitlements

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What's this for... a car?

Discretionary Allotments

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Used and unused LEAVE

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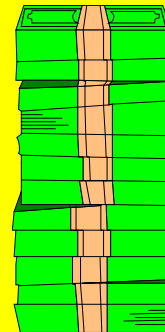
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Obtain service member's payroll information from the appropriate military finance center with judge-signed subpoena



"No-tax" impact of allowances

Consider the effect of part [or all] of a SM's compensation being non-taxable.

State guidelines presume that all pay is subject to state and federal taxes.

"Gross up" the non-taxed pay to effect an increase in child support



Finance Centers



Army
DFAS Indianapolis Center
8899 East 56th Street
Indianapolis, IN 46249-0160

Navy
DFAS Cleveland Center
Records Retrieval
1240 E. 9th St.
Cleveland, OH 44199-2055

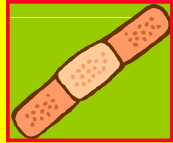
Air Force
DFAS Denver Center
6760 E. Irvington Place
Denver, CO 80279-8000

Coast Guard
Commanding Officer
Coast Guard Human Resource
Service and Information Center
444 S.E. Quincy
Topeka, KS 66683-3591

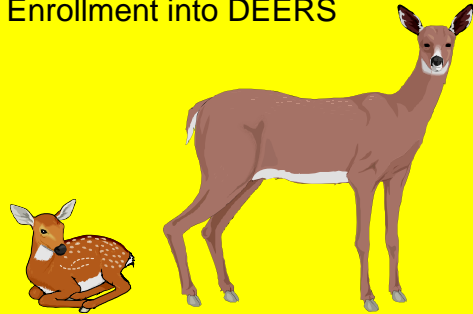
Marine Corps
DFAS Kansas City Center
1500 East 95th Street
Kansas City, MO 64197-0001



Medical Support

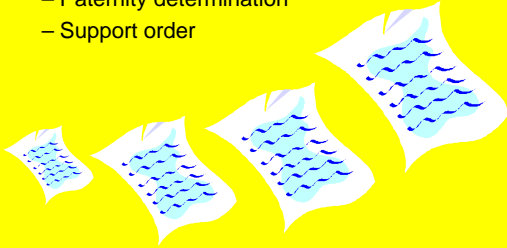


Enrollment into DEERS

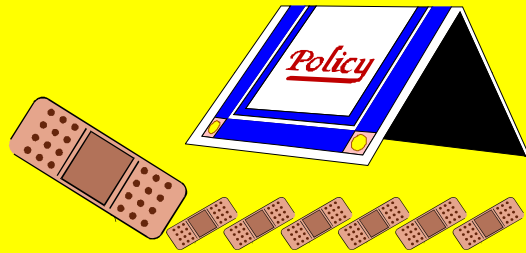


Documents needed to enroll

- Birth Certificate,
- Paternity determination
- Support order



Health insurance coverage: TRICARE (www.tricare.mil)



Use of military clinics and hospitals (no cost)



TRICARE

- TRICARE Plans
 - Prime & Prime Remote
 - Standard
 - Select & Extra
- TRICARE for Life (after age 65)
- TRICARE for Young Adults (TYA) (26)
- TRICARE Website: <http://www.tricare.mil/>
- Military Times Almanac Article in Materials

FORMER SPOUSE TRICARE OPTIONS

- 20/20/20 Unremarried Former Spouse
 - 20 yr Marriage + 20 yr Mil Svs + 20 yr overlap
- 20/20/15 Unremarried Former Spouse
 - 20 yr Marriage + 20 yr Mil Svs + 15 yr overlap
- Resources
 - Ch 3, AFI 36-3026_IP, June 2009
 - Common Questions and Answers on FS
 - Former Spouse Determination Program

CHCBP

CONTINUED HEALTH CARE BENEFIT PROGRAM

- NOT TRICARE BUT SAME COVERAGE AS TRICARE STANDARD
 - \$150 annual deductible; 75/25 copay; \$3000 cap; TRICARE Pharmacy Benefits
- LIKE A CONVERSION OR COBRA POLICY
- QUARTERLY PREMIUM 2012 = \$1065/QTR

CHCBP TRANSITIONAL COVERAGE

- COVERED BY TRICARE DAY BEFORE THE DIVORCE?
- EVERYONE ELIGIBLE FOR 36 MONTHS COVERAGE
- 20/20/15 FORMER SPOUSE GET 36 MONTHS CHCBP AFTER THEIR 12 MONTHS OF TRICARE
- MUST ENROLL IN CHCBP W/IN 60 DAYS OF DIVORCE

CHCBP UNLIMITED COVERAGE

- NOT ELIGIBLE FOR TRICARE
- CANNOT REMARRY BEFORE 55
- RECEIVE AN ANNUITY BY COURT ORDER OR AGREEMENT
- MUST RECEIVE PORTION OF MILITARY RETIRED PAY; OR,
- ENTITLED TO FORMER SPOUSE SBP
- CAUTION: 32 CFR §199.20 (10/17/2011)

RESOURCES ON CHCBP

- [CHCBP Website: http://www.humana-military.com/south/bene/TRICAREPrograms/chcbp.asp](http://www.humana-military.com/south/bene/TRICAREPrograms/chcbp.asp)
- CHCBP Fact Sheet (Resource Materials)
- Camp's TRICARE & CHCBP Article in ABA Family Law Quarterly, Vol 43, No 2 (Summer 2009) pp 227-300.

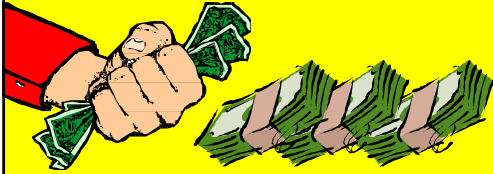
Wage Withholding



Pay can be withheld through:

– Garnishment Orders

– State Wage Withholding Orders



Send DOD garnishment orders to:



DFAS Cleveland Center
ATTN: DFAS-CL/L
P.O. Box 998002
Cleveland, OH 44199-8002

Help is never far away...

