



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD SUPPORT



MARIANNE UDOW
DIRECTOR

MICHIGAN IV-D ACTION TRANSMITTAL 2005-055

TO: Office of Child Support (OCS) Staff
Friends of the Court (FOC) Staff
Prosecuting Attorney (PA) Staff

FROM: Marilyn F. Stephen, Director
Office of Child Support

DATE: December 2, 2005

SUBJECT: Qualified Domestic Relations Orders (QDROs) Sent to Fidelity
Employer Services (Fidelity)

PURPOSE:

This Action Transmittal (AT) describes using the new Fidelity QDRO form (DHS-375) when attaching pension or retirement benefits from General Motors (GM) and Delphi retirees. Fidelity negotiated the wording of this QDRO form with Genesee County Friend of the Court. The form was reworked for use by any FOC office. It is being provided to FOC staff as a form (s)he may use when the court has ordered a QDRO for a GM or Delphi employee. Fidelity representatives have indicated that they will only honor a QDRO containing this language. If FOC staff choose not to use the form, Fidelity may reject the QDRO.

BACKGROUND:

On February 15, 2005, OCS published a notification to FOC staff entitled *Delay of Payments from General Motors' Retirement Plans*.¹ The notification explained that Fidelity was no longer accepting QDROs from IV-D agencies. Genesee County FOC staff worked with Fidelity to develop a model QDRO form for IV-D agencies to use when submitting a QDRO on a GM or Delphi employee.

PROGRAM ACTIONS AND POLICY INFORMATION:

Definitions:

Alternate Payee: Any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order (DRO) as having a right to receive all or a portion of the benefits payable under a plan with respect to the participant.²

¹ Ref: http://mi-support.cses.state.mi.us/systems/notifications/display_notification.aspx?notification_id=2970

² 29 United States Code (USC) 1056

Alternate Payee Custodian: The custodial party (CP) of a child alternate payee.

Participant: Any employee or former employee of an employer who is or may become eligible to receive a benefit of any type from an employee benefit plan.³ In the case of child support or spousal support, the participant is the non-custodial party (NCP) as named in a support order.

QDRO: A QDRO is a DRO which a plan administrator designates as qualified (approved) and creates or recognizes the existence of an alternate payee's right to receive all or a portion of the benefits payable with respect to a participant under a private retirement plan.⁴

True Copy: A copy of a court paper imprinted with the court seal or stamped by the Circuit Court Clerk as a true copy indicating that the copy is real.⁵

Use of DHS-375

FOC staff may use the DHS-375 form (Ref: Attachment A) when submitting a QDRO for any child support or spousal support case for a GM or Delphi retiree.⁶ FOC staff may submit a separate QDRO for child support and for spousal support if both are ordered.

Example 1. The judge orders a QDRO against a GM hourly employee for spousal support and child support. FOC staff will draft two QDROs, one naming the children as alternate payees and one naming the spouse or former spouse as the alternate payee.

FOC staff using the DHS-375 for a Fidelity QDRO, should complete the DHS-375 as follows:

On the top of the form, in the case pleadings caption:

1. Enter the circuit court number, court name, county name and court case (docket) number;
2. Check the *Amended* box if the QDRO is amended or modified;
3. Add the plaintiff's and defendant's names, addresses and telephone numbers, as appropriate;
4. Indicate which party is the obligor by checking the obligor box under that party's information;
5. Under at a session of said Court, enter the city and county of the court where the hearing was held;
6. In the field beside PRESENT: Honorable, enter the judge's name; and

³ 29 USC 1002

⁴ 29 USC 1056

⁵ State Court Administrative Office (SCAO)/ Friend of the Court Bureau (FOCB) – *What it means to represent yourself in a Domestic Relations Matter*. PSA 26.

⁶ The court may order a QDRO before the participant retires. The QDRO may be entered for benefits to be paid out in the future, but the benefits will not be paid to the alternate payee until the participant's earliest retirement date. This is a rare occurrence.

7. In the paragraph that reads, WHEREAS, the Friend of the Court for the County of _____, enter the County name.

Under 'Paragraph 1:'

1. Enter the name, address, date of birth (DOB), and Social Security number (SSN) for each party, which include:
 - Participant (NCP) [section 1(a)];
 - Alternate Payee [section 1(b)]; and
 - Alternate Payee Custodian [section 1(d)].
2. If a family violence indicator (FVI) is set for any of the parties and the family violence (FV) code is set to suppress the address,⁷ use the alternate address required in MCR 3.203(F);⁸
3. In section 1(c), check the box indicating the relationship between the alternate payee and the participant;
4. In section 1(e), check the box corresponding to the NCP's employee plan; and
5. If this QDRO is an amended QDRO, in section 1 (f) enter the order date of the original QDRO and enter the court ordered benefit amount of the original QDRO.

Under 'Paragraph 2:'

1. Ensure that the appropriate benefit amount has been determined;⁹ and
2. List the benefit amount.

Note: Once the court orders the benefit amount, the court cannot order that another alternate payee receive the same benefits.

Under 'Paragraphs 3 – 8:'

Make no changes.

Under 'Paragraph 9:'

1. Enter the county name, where indicated; and
2. Enter the FOC receiving address after the words "and forward to."

Under 'Paragraphs 10-15'

Make no changes.

Under 'Signature:'

1. Enter the signature date; and
2. Obtain the assigned judge's signature.

⁷ Reason codes that will suppress addresses are: CT – Court Order; SS – Sworn Statement; PW – Michigan PPO with confidential address; FW – foreign PPO with confidential address; FP – Federal Parent Locator Service (FPLS). Ref: AT 2004-18, *Family Violence Indicator*.

⁸ MCR 3.203(F) "Confidential Addresses. When a court order makes a party's address confidential, the party shall provide an alternate address for service of notice and court papers."

⁹ The benefit amount cannot exceed the Consumer Credit Protection Act (CCPA) limit. Ref: 15 USC 1673.

Under 'Prepared by:'

1. Enter the county FOC; and
2. Enter the address under the FOC county name.

Serving the QDRO

FOC staff or the requesting party must serve a *true copy* of the QDRO on:

Fidelity Employer Services LCC
QDRO Administration Group
P.O. Box 770003
Cincinnati, OH 45277-0066
Attn: General Motors (or Attn: Delphi)

LEGAL REFERENCES: Federal
29 USC 1056

POLICY REFERENCE: AT 2003-05, *Receipt of Support Payments in Local Offices.*
AT 2003-13, *Qualified Domestic Relations Orders and Eligible Domestic Relations Orders: Obtaining and Disbursement.*
Combined IV-D Policy Manual, 4DM 545, *Qualified Domestic Relations Orders/Eligible Domestic Relations Orders.*
AT 2004-18, *Family Violence Indicator*

AT MAINTENANCE: Retain AT until further notice

EFFECTIVE DATE: Effective upon receipt

REVIEW PARTICIPANTS: Eric Mis, Kent County FOC
Dan Fojtik, Kent County FOC
Vicki Pinckney, Ingham County FOC
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CONTACT PERSON: Denise E. Stork
Policy Analyst
Storkd@michigan.gov
(517) 241-5053

CC: Fidelity at Fidelity Employer Services LCC

QDRO Administration Group
P.O. Box 770003
Cincinnati, OH 45277-0066

SCAO

ATTACHMENTS:

DHS-375 Qualified Domestic Relations Order
(Fidelity)

MFS/DES