

§ 96-17. Protection of rights and benefits; attorney representation; prohibited fees; deductions for child support obligations.

(a) Waiver of Rights Void. – Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this Chapter shall be void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this Chapter from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from the remuneration of individuals in his employ to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000) or be imprisoned for not more than six months, or both.

(b) Representation. – Any claimant or employer who is a party to any proceeding before the Division may be represented by (i) an attorney; or (ii) any person who is supervised by an attorney, however, the attorney need not be present at any proceeding before the Division.

(b1) Fees Prohibited. – Except as otherwise provided in this Chapter, no individual claiming benefits in any administrative proceeding under this Chapter shall be charged fees of any kind by the Division or its representative, and in any court proceeding under this Chapter each party shall bear its own costs and legal fees.

(c) No Assignment of Benefits; Exemptions. – Except as provided in subsection (d) of this section, any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this Chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.

(d) (1) Definitions. – For the purpose of this subsection and when used herein:

- a. "Unemployment compensation" means any compensation found by the Division to be payable to an unemployed individual under the Employment Security Law of North Carolina (including amounts payable by the Division pursuant to an agreement under any federal law providing for compensation, assistance or allowances with respect to unemployment) provided, that nothing in this subsection shall be construed to limit the Division's ability to reduce or withhold benefits, otherwise payable, under authority granted elsewhere in this Chapter including but not limited to reductions for wages or earnings while unemployed and for the recovery of previous overpayments of benefits.
- b. "Child support obligation" includes only obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act.
- c. "State or local child support enforcement agency" means any agency of this State or a political subdivision thereof operating pursuant to a plan described in subparagraph b. above.

- (2) a. An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether the individual owes child support obligations, as defined under subparagraph (1)b. of this subsection. If any such individual discloses that he or she owes child support obligations and is determined by the Division to be eligible for payment of unemployment compensation, the Division shall notify the State or local child support enforcement agency enforcing such obligation that such individual has been determined to be eligible for payment of unemployment compensation.
- b. Upon payment by the State or local child support enforcement agency of the processing fee provided for in paragraph (4) of this subsection and beginning with any payment of unemployment compensation that, except for the provisions of this subsection, would be made to the individual during the then current benefit year and more than five working days after the receipt of the processing fee by the Division, the Division shall deduct and withhold from any unemployment compensation otherwise payable to an individual who owes child support obligations:
1. The amount specified by the individual to the Division to be deducted and withheld under this paragraph if neither subparagraph 2. nor subparagraph 3. of this paragraph is applicable; or
 2. The amount, if any, determined pursuant to an agreement submitted to the Division under section 454(20)(B)(i) of the Social Security Act by the State or local child support enforcement agency, unless subparagraph 3. of this paragraph is applicable; or
 3. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to properly served legal process, as that term is defined in section 462(e) of the Social Security Act.
- c. Any amount deducted and withheld under paragraph b. of this subdivision shall be paid by the Division to the appropriate State or local child support enforcement agency.
- d. The Department of Health and Human Services and the Division are hereby authorized to enter into one or more agreements which may provide for the payment to the Division of the processing fees referred to in subparagraph b. and the payment to the Department of Health and Human Services of unemployment compensation benefits withheld, referred to in subparagraph c., on an open account basis. Where such an agreement has been entered into, the processing fee shall be deemed to have been made and received (for the purposes of fixing the date on which the Division will begin withholding unemployment compensation benefits) on the date a written authorization from the Department of Health and Human Services to charge its account is received by the Division. Such an authorization shall apply to all processing fees then or thereafter (within the then current benefit year) chargeable with respect to any individual name in the authorization. Any agreement shall provide for the

reimbursement to the Division of any start-up costs and the cost of providing notice to the Department of Health and Human Services of any disclosure required by subparagraph a. Such an agreement may dispense with the notice requirements of subparagraph a. by providing for a suitable substitute procedure, reasonably calculated to discover those persons owing child support obligations who are eligible for unemployment compensation payments.

- (3) Any amount deducted and withheld under paragraph (2) of this subdivision shall, for all purposes, be treated as if it were paid to the individual as unemployment compensation and then paid by such individual to the State or local child support enforcement agency in satisfaction of the individual's child support obligations.
- (4)
 - a. On or before April 1 of 1983 and each calendar year thereafter, the Division shall set and forward to the Secretary of Health and Human Services for use in the next fiscal year, a schedule of processing fees for the withholding and payment of unemployment compensation as provided for in this subsection, which fees shall reflect its best estimate of the administrative cost to the Division generated thereby.
 - b. At least 20 days prior to September 25, 1982, the Division shall set and forward to the Secretary of Health and Human Services an interim schedule of fees which will be in effect until July 1, 1983.
 - c. The provisions of this subsection apply only if arrangements are made for reimbursement by the State or local child support agency for all administrative costs incurred by the Division under this subsection attributable to child support obligations enforced by the agency. (Ex. Sess. 1936, c. 1, s. 15; 1937, c. 150; 1979, c. 660, s. 22; 1981, c. 762, ss. 1, 2; 1981 (Reg. Sess., 1982), c. 1178, ss. 1, 2; 1985, c. 552, s. 21; 1997-443, s. 11A.118(a); 1997-456, s. 27; 2011-401, s. 2.18.)