

Superseded 5/9/2017

35A-4-103 Void agreements -- Child support obligations -- Penalties.

- (1)
 - (a) Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this chapter is void.
 - (b) 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 the employer, is void.
 - (c) An employer may not directly or indirectly:
 - (i) make, require, or accept any deduction from wages to finance the employer's contributions required from the employer;
 - (ii) require or accept any waiver of any right under this chapter by any individual in the employer's employ;
 - (iii) discriminate in regard to the hiring or tenure of work on any term or condition of work of any individual on account of the individual claiming benefits under this chapter; or
 - (iv) in any manner obstruct or impede the filing of claims for benefits.
 - (d)
 - (i) Any employer or officer or agent of an employer who violates Subsection (1)(c) is, for each offense, guilty of a class B misdemeanor.
 - (ii) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under this Subsection (1) shall be not less than \$100, and a penalty of imprisonment shall be not more than six months.
- (2) An individual claiming benefits may not be charged fees or costs of any kind in any proceeding under this chapter by the department or its representatives, or by any court or any officer of the court.
- (3)
 - (a) Any individual claiming benefits in any proceeding before the department or its representatives or a court may be represented by counsel or any other authorized agent.
 - (b) A counsel or agent may not either charge or receive for the counsel's or agent's services more than an amount approved by the division or administrative law judge in accordance with rules made by the department.
- (4) Except as provided for in Subsection (5):
 - (a) any assignment, pledge, or encumbrance of any right to benefits that are or may become due or payable under this chapter is void;
 - (b) rights to benefits are exempt from levy, execution, attachment, or any other remedy provided for the collection of debt;
 - (c) benefits received by any individual, so long as they are not mingled with other funds of the recipient, are exempt from any remedy for the collection of all debts except debts incurred for necessities furnished to the individual or the individual's spouse or dependents during the time when the individual was unemployed; and
 - (d) any waiver of any exemption provided for in Subsection (4) is void.
- (5)
 - (a) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes:
 - (i) child support obligations; or
 - (ii) an uncollected overissuance of SNAP benefits.
 - (b) If the individual owes child support obligations, and is determined to be eligible for unemployment compensation, the division shall notify the state or local child support agency

charged with enforcing that obligation that the individual is eligible for unemployment compensation.

- (c) The division shall deduct and withhold from any unemployment compensation payable to an individual that owes child support obligations:
 - (i) any amount required to be deducted and withheld from unemployment compensation under legal process, as defined in the Social Security Act, 42 U.S.C. Sec. 659(i), properly served upon the department;
 - (ii) the amount determined under an agreement submitted to the division under Subsection 454(19)(B)(i) of the Social Security Act, 42 U.S.C. Sec. 654, by the state or local child support enforcement agency, except if Subsection (5)(c)(i) is applicable; or
 - (iii) the amount specified by the claimant to the division if neither Subsection (5)(c)(i) nor (ii) is applicable.
- (d) The division shall notify the state SNAP agency that an individual is eligible for unemployment compensation if the individual:
 - (i) owes an uncollected overissuance of SNAP benefits; and
 - (ii) is determined to be eligible for unemployment compensation.
- (e) The division shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance of SNAP benefits:
 - (i) the amount specified by the individual to the division to be deducted and withheld under this Subsection (5)(e);
 - (ii) the amount, if any, determined pursuant to an agreement submitted to the state SNAP agency under Section 13(c)(3)(B) of the Food and Nutrition Act of 2008; or
 - (iii) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to Section 13(c)(3)(B) of the Food and Nutrition Act of 2008.
- (f) Any amount deducted and withheld under Subsection (5)(c) or (e) shall:
 - (i) be paid by the department to the appropriate:
 - (A) state or local child support enforcement agency; or
 - (B) state SNAP agency; and
 - (ii) for all purposes, be treated as if it was paid to the individual as unemployment compensation and then paid by the individual to the appropriate:
 - (A) state or local child support enforcement agency in satisfaction of the individual's child support obligation; or
 - (B) state SNAP agency in satisfaction of the individual's uncollected overissuance.
- (g) For purposes of this Subsection (5):
 - (i) "Child support obligation" means obligations that are enforced under a plan described in Section 454 of the Social Security Act, 42 U.S.C. Sec. 654, that has been approved by the Secretary of Health and Human Services under Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.
 - (ii) "State SNAP agency" means the Department of Workforce Services or its designee responsible for the collection of uncollected overissuances.
 - (iii) "State or local child support enforcement agency" means any agency or political subdivision of the state operating under a plan described in this Subsection (5).
 - (iv) "Uncollected overissuance" is as defined in Section 13(c)(1) of the Food and Nutrition Act of 2008.
 - (v) "Unemployment compensation" means any compensation payable under this chapter, including amounts payable under an agreement directed by federal law that provides compensation assistance or allowances for unemployment.

- (h) This Subsection (5) is applicable only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency or state SNAP agency for the administrative costs of the department under this Subsection (5) that are directly related to the enforcement of child support obligations or the repayment of uncollected overissuance of SNAP benefits.