

§ 818.14 Basic Allowance for Quarters (BAQ).

Under the DOD Military Pay and Allowances Entitlements Manual (DODPM), paragraph 30236, BAQ is not payable on behalf of a dependent whom a member refuses to support. Failure to support a dependent on whose behalf BAQ is being received requires recoupment for periods of nonsupport. Members should be informed of this provision and be advised that refusal or failure to support dependents requires administrative termination of BAQ entitlement at the with dependents rate.

(a) BAQ termination at the with dependents rate does not relieve a member of responsibility for providing dependent support.

(b) Commanders must assess the member's compliance with Air Force policy in those situations where the member would not otherwise be authorized the BAQ entitlement. For example, member is residing in government quarters and has no other dependents.

§ 818.15 Garnishment.

Federal law authorizes legal process against the Air Force only for the enforcement of child support and alimony payments according to state law. Service of legal process must be accomplished by certified or registered mail, return receipt requested, or by personal service. The Commander, Air Force Accounting and Finance Center, Attention: JA, Denver CO 80279-5000, telephone (303) 370-7524, is the agent designated to accept legal process within the Air Force for active duty, Reserve, and retired military members.

(a) Legal process is defined as any writ, order, summons, or other similar process in the nature of garnishment issued by:

(1) A court of competent jurisdiction within any state, territory, or possession of the United States; or

(2) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; or

(3) An authorized official pursuant to an order of such court of competent jurisdiction or pursuant to state or local law. (See 42 U.S.C. 659, 662.)

(b) Process directed for garnishment must demonstrate, either on its face or by accompanying documentation, that collection is sought only for child support or alimony or both. The process must also show the member's Social Security number and whether the member is active duty, Reserve, or retired.

(c) If the validity of a court's order is questioned by the member concerned, the issue must be resolved by the parties or in court by the member or his or her private attorney. The Air Force has no authority to resolve such disputes.

§ 818.16 Statutory allotments.

An active duty member's pay and allowances are subject to a mandatory allotment to satisfy child or child and spousal support obligations where payments are in arrears for at least 2 months.

(a) A statutory allotment, pursuant to federal law, may be accomplished by the Air Force Accounting and Finance Center upon their being furnished a written notice from a court or state agency with responsibility for administering child support programs under title IV-D of the Social Security Act.

(b) The notice and the following documents or information must be served on the Commander, Air Force Accounting and Finance Center, Attention: JA, Denver CO 80279-5000:

(1) A statement that the person signing is an agent or an attorney of the state having a title IV-D plan who has the duty or authority under such plan to seek to recover amounts owed by a member as child or child and spousal support or a notice from a state court or any agent of the court who has authority to issue an order against a member for the support of a child.

(2) The service member's full name and Social Security number.

(3) A recently certified copy of the order awarding support must be included with the notice and a statement that the support payments are in arrears at least 2 months.

(4) A court order showing the amount of the arrears and specifying that payments be made to liquidate such arrears.

(5) The total amount of the allotment (the amount to be paid for current support and the amount to be paid each month towards arrears must be specified), the date or dates that the current support should terminate (for each child), and the name and address of the payee.

§ 818.17 Paternity claims.

The Air Force does not judge paternity claims against its personnel. Paternity must be established either by admission, or by judicial order or decree of paternity, or child support duly ordered by a United States or foreign court of competent jurisdiction.

(a) Allegations of paternity against active duty members will be transmitted to the member concerned through his unit commander. The unit commander will:

(1) If paternity is denied, inform the claimant accordingly and advise of Air Force policy regarding paternity claims.

(2) Once paternity is established, advise the member of his moral and legal obligations as well as his legal rights in the matter. The member will be encouraged to render the necessary financial support to the child and take any other action considered proper under the circumstances. Advise the claimant of Air Force policy as it relates to support of dependents and the position taken by the member, if the member elects to take one.

(3) On receipt of a communication from a judge of a civilian court, including a court summons or a judicial order, concerning the member's availability to appear at an adoption hearing where it is alleged that he is the father of an illegitimate child, provide a reply that:

(i) Due to military requirements, the member cannot be granted leave to attend any court hearing until (date), or

(ii) A request by the member for leave to attend an adoption hearing on (date), if made, would be approved, or

(iii) The member has stated in a sworn written statement (forward a copy with response) that he is not the natural parent of the child, and that only a court of competent jurisdiction can judge the matter, or

(iv) Due to the member's unavailability caused by a specific reason, a completely responsive answer cannot be made.

(v) Inform member of the inquiry and the response. Also, member should be urged to obtain legal assistance (including an explanation of the Soldiers' and Sailors' Civil Relief Act of 1940, if appropriate).

(b) If the member has been released from active duty, the unit commander forwards the inquiry to HQ ARPC/DPAS, Denver CO 80280-5000. Advise complainant of the referral.

(1) HQ ARPC/DPAS, on receipt of an allegation of paternity, provides an appropriate response to the claimant as set forth for members on active duty under paragraphs (a) (1) and (2) of this section.

(2) Communications from a judge of a civilian court, including a court summons or judicial order, concerning the availability of personnel to appear at an adoption hearing where it is alleged that the member not on active duty is the father of an illegitimate child, shall receive a reply that such person is not on active duty. A copy of the communication and the reply is forwarded to the named individual.

(3) When requested by a judge of a civilian court, the member's address may be furnished if the request is supported by a:

(i) Certified copy of either a judicial order or decree of paternity or support duly rendered against the member by a United States or foreign court of competent jurisdiction; or

(ii) Document that establishes that the member has made an official admission or statement acknowledging paternity or responsibility for support of a child before a court of competent jurisdiction, administrative or executive agency, or official authorized to receive it; or

(iii) Court summons, judicial order, or similar document of a court within the United States in a case concerning the adoption of an illegitimate child wherein the member is alleged to be the father.

(4) The address may also be furnished if the claimant, with the corroboration of a physician's affidavit, alleges and explains an unusual medical situation