

ADVISORY NO. 229

TOPIC: CHILD SUPPORT LIENS ON WORKERS' COMPENSATION BENEFITS

In a housekeeping bill passed during the 1997 Legislative Session, Section 408.203(b) of the Labor Code was amended, subjecting workers' compensation benefits to writs and orders of income withholding issued pursuant the Family Code.

The carrier is defined as the claimant's "employer" for purposes of these writs and orders in Section 101.012 of the Family Code. Under Section 158.009 of the Family Code, an order or writ of withholding shall direct that the carrier (employer) to withhold from the claimant's benefits the amount specified in the order *up to a maximum amount of 50 percent of the weekly benefits*. The Family Code also provides for certain rights and duties of a carrier subject to an order or writ of withholding (Sections 158.201 through 158.211). The carrier must begin to withhold the benefits in accordance with the writ or order not later than the first pay period following the date on which the order or writ was delivered to the carrier, and shall continue to withhold benefits as provided by the order or writ as long as they are due.

The Family Code specifically indicates that the carrier may deduct an administrative fee of not more than \$5.00 each month from the claimant's benefits in addition to the amount to be withheld as child support.

Compliance with the order or writ relieves the carrier of liability to the claimant for the amount withheld. *However, failure to comply with the order or writ renders the carrier liable not only to the claimant for the benefits withheld and not paid per the order, but also to the beneficiary of the writ or order for the amount that should have been paid; in addition, the carrier would be liable for reasonable attorney's fees and court costs, as well as a fine not to exceed \$200.00 for each occurrence for a knowing violation.*