

State of Alabama Alabama Department of Corrections



Research and Planning P. O. Box 301501 Montgomery, AL 36130-1501

July 26, 2004

ADMINISTRATIVE REGULATION NUMBER 112

OPR: ACCOUNTING

COURT ORDERED WITHHOLDING FROM INMATE FUNDS DUE PROCESS PROCEDURES

I. GENERAL

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes responsibilities, policies, and procedures for initiation of court ordered withholding of funds from inmates' personal accounts.

II. POLICY

The ADOC will comply with any order from a court of proper jurisdiction that directs the withholding from an inmate's personal funds.

III. DEFINITION(S) AND ACRONYM(S)

- A. PMOD: Prisoners' Money on Deposit.
- B. <u>PLRA</u>: Prisoners' Litigation Reform Act of 1995.
- C. <u>Fair Hearing</u>: Due process hearing held for the purpose of allowing an inmate, for whom the ADOC has received a withholding order, to show cause as to why withholding should not be initiated.
- D. <u>Fair Hearing Waiver</u>: Document initiated by the inmate indicating that he/she has chosen to forego the right to a due process hearing thus allowing immediate implementation of a withholding order by the ADOC.
- E. <u>Hearing Official</u>: The designated institution staff member assigned the duty of receiving and evaluating arguments and/or documentation presented by an inmate who is contesting the implementation of a withholding order.

IV. RESPONSIBILITIES

- A. Wardens/Directors are responsible for developing their institutional/divisional Standard Operating Procedures (SOPs), as necessary, for the implementation of AR 112, Court Ordered Withholding From Inmate Funds Due Process Procedures.
- B. The Business Manager is responsible for:
 - 1. Ensuring that an inmate's account is frozen upon receipt of a valid withholding order.
 - 2. Scheduling a Fair Hearing in accordance with paragraph V.F.1.
 - 3. Ensuring that a Fair Hearing has been held or that a Fair Hearing Waiver, ADOC Form 112-B, has been submitted by the inmate prior to initiating withholding of funds.
- C. The Warden may authorize an alternate to serve as the Hearing Official at the Fair Hearing.
- D. The Business Office staff is responsible for remitting collected funds as directed by the court, or in the absence of specific direction, in accordance with the ADOC *Manual of Accounting Procedure for Institutions and Community Based Facilities (Accounting Manual)*.

V. PROCEDURES

- A. Personal funds held by the Department in the Prisoner's Money on Deposit (PMOD) account on behalf of the inmate and/or subsequent receipts of personal funds will be subject to withholding in accordance with the requirements of the specific order.
- B. Any inmate subject to a withholding order is entitled to a Fair Hearing prior to the initiation of the withholding process.
- C. An exception to the Fair Hearing requirement is made for withholding orders from Federal Courts that fall under the Prisoner Litigation Reform Act of 1995 (PLRA). These cases are civil actions or appeals filed by an inmate whose agreement to pay related fees is implied by the act of filing such actions.
- D. Upon receipt of a valid withholding order from a Court of proper jurisdiction, the Business Manager shall immediately freeze the inmate's PMOD account. The inmate shall then be served with a properly completed Notice of Intent to Withhold, ADOC Form 112-A. Withdrawals are not to be allowed from the inmate's account until such time that a Fair Hearing has been held, or the inmate completes a Fair Hearing Waiver, ADOC Form 112-B.

E. The Business Manager will schedule the Fair Hearing for a specific date and time. The Notice of Intent to Withhold, ADOC Form 112-A, shall reflect the scheduled time and date and a copy of the respective Court Order shall be attached.

F. Fair Hearing

- 1. The Business Manager shall hold a Fair Hearing no earlier than ten (10) working days from the date of the Notice, unless the inmate requests an earlier date.
- 2. The inmate may waive a Fair Hearing by submitting to the Business Manager a Fair Hearing Waiver, ADOC Form 112-B. Upon receipt of the waiver, the Business Manager will immediately initiate withholding of funds in accordance with the court order.
- 3. On the Fair Hearing date, the inmate may present any proof of payment made to the court or any other defense to the court order. The Business Manager will verify with the Court any amounts claimed by the inmate that has previously been paid and shall reduce the amounts to be withheld to reflect the unpaid balance as stated by the Court.

G. Action After Hearing

- 1. If the inmate provides no proof that payment requirement has been satisfied, or if the proof cannot be verified, or if the inmate fails to prove any other proper defense to the satisfaction of the Hearing Official, withholding shall be initiated in accordance with the court order. The results of the Fair Hearing shall be recorded using the Fair Hearing Summary, ADOC Form 112-C.
- 2. Successive Orders will be collected as directed after each preceding judgment has been satisfied, unless otherwise directed by a court of proper jurisdiction.
- 3. The inmate shall be provided a receipt each time monies are withheld from the PMOD account and a final notice of dispersal shall be provided to the inmate when the Court ordered amount has been collected in full.
- 4. At any time during the life of the court order, the inmate, upon his/her request, may receive a summary as to the status of his/her contribution to the Order, not to exceed twice per year.

VI. DISPOSITION

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

VII. FORMS

- A. ADOC Form 112-A: Notice of Intent to Withhold
- B. ADOC Form 112-B: Fair Hearing Waiver
- C. ADOC Form 112-C: Fair Hearing Summary

VIII. SUPERCEDES

This regulation supercedes AR 438 dated March 25, 1991.

IX. <u>PERFORMANCE</u>

This administrative regulation is published under authority granted the ADOC under Section 14-1-8, **1975 Code of Alabama**.

Donal Campbell, Commissioner

NOTICE OF INTENT TO WITHHOLD COURT ORDERED WITHHOLDING FROM PMOD FUNDS

TO:		
	Inmate Name and AIS Number	
FROM:		
	Business Manager	
SUBJECT:	Court Ordered Withholding	
This is to a	dvise you that an Order from	Court, case number
	_, has been received directing the Alabama De	partment of Corrections to withhold
\$	from your PMOD account. A copy of the Or	rder is attached to this notice.
determined. At the Order sho	eled to a Fair Hearing prior to assessment of the pending the outcome of this hearing. The hearing at (a.m.) (p.m.) in my of At that time, you may produce any evidence you ould not be had. In the alternative, you may we Hearing Waiver, ADOC Form 112-B.	earing is scheduled for the date of fice or other convenient place to be have to show why compliance with
Received:		
Date:		
Distribution:	Original to Business Office	

ADOC Form 112-A

Copy to inmate

FAIR HEARING WAIVER COURT ORDERED WITHHOLDING FROM PMOD FUNDS

I	, AIS Number	having been informed of the Court
Order to withhold	funds in the amount of \$	from my PMOD funds/account balance,
Case No	do hereby waive my righ	t to a Fair Hearing on the issue and agree to
the withholding w	ithout a Fair Hearing.	
INM	IATE SIGNATURE	
Data		
Swoi	n to and subscribed before me this	s, day of,,
		Notary Public My Commission Expires

Distribution: Original to Business Office Copy to inmate

ADOC Form 112-B

FAIR HEARING SUMMARY COURT ORDERED WITHHOLDING FROM INMATE FUNDS

The Department of Corrections has received a court order directing it to withhold funds from the PMOD account balance and/or receipts of the inmate indicated below. A Fair Hearing was held for the purpose of determining action to be taken by the Department of Corrections with regard to this withholding order. The inmate was given the opportunity to provide evidence that the order had been previously satisfied, or to justify by other reason(s) why the Department should not enforce the order.

Court:	Case Number:
Inmate subject to the withholding order:	
Name:	<u> </u>
AIS No.	<u> </u>
Hearing location:	Hearing Date:
☐ Inmate in attendance ☐ Evidence submitted: (List below and atta	ach copies):
Findings of Hearing Official	
Withholding ☐ will be enforced ☐ will NOT be enforced.	
Hearing Official: Title:	_
Signature	Date:
Distribution: Original to Business Office Copy to inmate	

ADOC Form 112-C