



Community Legal Information Association of Prince Edward Island, Inc.

Maintenance Enforcement in PEI

Maintenance is a term used to refer to child and spousal support payments resulting from a court order or an agreement. Payor is the term used to refer to the person who is to pay support to someone else.

The Maintenance Enforcement Program is a free provincial program that collects child and spousal support payments resulting from a court order or an agreement. The program tries to enforce orders and agreements. If a court orders support, or you sign an agreement for support, you can register your order or agreement with the Maintenance Enforcement program. You must know an address where the payor lives or works. Maintenance Enforcement has no way of tracking down those who should be paying support.

The program can be used if the payor lives in Canada, in some US states and in some other countries with whom agreements exist.

The Maintenance Enforcement office is in the Honourable C.R. McQuaid Family Law Centre at 1 Harbourside Access Road in Charlottetown. The phone number is 894-0383. If you are registered with the program and have a PIN, you can call 1-866-226-8722, toll free, for an automated response on the status of your case or your payment.

How does the program collect the payments?

Maintenance Enforcement has several ways of collecting support payments. When the program receives the agreement or order and the registration or filing form that you fill out, the case is entered into their automated computer system. A letter is sent to the payor with a payroll deduction form, asking the payor to contact the program to make arrangements to pay.

The payor can:

- agree to a wage attachment - the employer deducts the correct amount from the payor's salary and sends it to the receiving person
- authorize an automatic deduction from a bank account, and the receiving person approves a direct deposit of support payments into a bank account
- pay the Maintenance Enforcement Program which then pays the receiving parent

If the payor doesn't contact Maintenance Enforcement after the letter has been sent, the program will send a payment order to his or her employer.

If the employer is the provincial government, federal government, or an established company, it usually takes about four to six weeks before the first deduction is made from the payor's salary.

Sometimes employers see the deductions as a nuisance and try to convince the employee to handle them. Sometimes employers forget to make the deductions. The only way this is caught in the program is when the receiving person calls to say "I did not get my cheque."

If the payor changes jobs often or if the Maintenance Enforcement Program can't find out where the payor works, wage attachments can't be used for support payments.

What happens if the payor stops working?

If the payor is receiving employment insurance (EI) this can be "attached". Support payments will be taken out of EI benefits. The Maintenance Enforcement Program must apply to the Family Orders and Agreements Enforcement Assistance Unit (FOAEA) of the federal government to intercept this money. This unit works with every enforcement program in Canada.

How else can Maintenance Enforcement collect unpaid support payments?

Maintenance Enforcement tries to collect unpaid support and enforce orders or agreements by:

- garnishing a portion of the payor's wages;
- asking the federal government to apply some or all of the payor's income tax refund, employment insurance payments, old age supplement, Canada Pension Plan payments or GST rebates to unpaid support;
- suspending the payor's driving licence;
- asking the federal government to suspend the payor's passport;
- asking the federal government to suspend certain other licences such as a commercial seaman's licence or aviation licence; or
- taking the payor to court for a default hearing.

The decision about how to enforce payment is made by the Maintenance Enforcement Program.

Can Maintenance Enforcement collect if a payor lives in another province?

If the full and correct address is given on the filing form, the case will be sent to the payor's home province or territory for enforcement. The Maintenance Enforcement program in that province or territory will enforce the order or agreement.

Once that happens, the program on PEI is no longer responsible for your case. The PEI office can ask for updates and give information to the other province but does not take part in enforcing the order or agreement.

What happens if the payor does not make payments?

This is called being in default. If this happens, you must let Maintenance Enforcement know that payment has not been made. You will have to give the current address of the payor. Maintenance Enforcement may take the payor to court for a default hearing.

An obligation to pay spousal or child support takes priority over other debts such as credit cards. The Maintenance Enforcement Program will try to collect, just like any other collection agency.

If the payor is out of work, on leave from work, or has had a major change in financial circumstances, it is his or her responsibility to have the support agreement or order changed. The payor needs to notify Maintenance Enforcement and apply for a variation of the existing agreement or order. The Child Support Guidelines offices or a lawyer can help with the application. Once this variation application is made, arrears (unpaid support payments) do not continue to add up. Going to court for a variation will put a stop to default hearings until the case is heard. It may also lower or temporarily stop support payments.

Without a variation, unpaid support continues to build up. Once you get a job and have an income, the total amount of arrears will have to be paid. It is important to apply for a variation if you are the payor and have no income for a period of time.

The Maintenance Enforcement Program will do everything in its power to enforce the terms of an agreement or order. However, if you have no income, are on welfare assistance or living with your parents with no income, then the terms of the agreement or order cannot be enforced. You must have some identifiable source of income for the program to work.

What if we don't want to use the program?

You must register with the program to use it. An exception to this is if a judge orders that you register with Maintenance Enforcement. You can opt out if you no longer want to use the program by having the receiving person write a letter to the program stating this. You can opt back in to the program at any time.

For more information or to register your support agreement/order contact:

Maintenance Enforcement, C.R. McQuaid Family Law Centre, 1 Harbourside Access Road, P.O. Box 2290, Charlottetown, telephone: 894-0383.

If you wish to speak to a lawyer about support payments, contact:

Lawyer Referral Service at 1-800-240-9798 (892-0853 in Charlottetown). A half hour appointment with a lawyer will cost \$10 plus tax.

For information about the federal Child Support Guidelines contact:

Child Support Guidelines Offices at Charlottetown (368-6220) or Summerside, (888-8188).

You can also call CLIA at 892-0853 or 1-800-240-9798.

This pamphlet is a publication of Community Legal Information Association. It does not give a complete description of the Maintenance Enforcement Program. If you are having a problem paying or receiving support, please contact the Maintenance Enforcement office or your lawyer for information and assistance. If you don't know a lawyer, call the Lawyer Referral Service at 892-0853 in the Charlottetown area or 1-800-240-9798 toll-free. You can be referred to a lawyer for a half hour appointment for \$10 plus tax.

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For more information, you can telephone CLIA at 892-0853 or 1-800-240-9798, visit our website at www.cliapei.ca or email us at clia@cliapei.ca.

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