

# Ordering Payment Plan for Arrearages Checklist

“A payer who has an arrearage under a support order may file a motion with the circuit court for a payment plan to pay arrearages and to discharge or abate arrearages.” [MCL 552.605e](#).

On receipt of a motion regarding payment plan/discharge of arrears, schedule a hearing on motion (unless no objections to order have been made and/or parties stipulate to order). See [MCL 552.605e\(1\)](#).

Procedures to follow during the hearing:

- Ensure proper notice has been provided to interested parties. See [MCL 552.605e\(1\)](#); [MCL 552.605e\(2\)](#).
- Determine whether written comments were submitted by the Office of Child Support (or its designee) before the hearing:
  - YES, must consider comments in making findings.
  - NO, may:
    - ADJOURN hearing to seek written comments before making decision.
    - APPOINT an examiner or a receiver to review payer’s assets and the plan, and to make a recommendation related to the plan or propose an alternative plan.
    - PROCEED with hearing but require *clear and convincing evidence* for approval of presented plan.
    - DENY the presented plan. [MCL 552.605e\(7\)](#).
- Ensure the payment plan provides for reinstatement of arrearages subject to the payment plan for good cause<sup>1</sup> shown

upon a motion and hearing at any time during the pendency of the payment plan. See [MCL 552.605e\(4\)](#).

Approve the plan:

If written comments:

WERE submitted by the Office of Child Support (or its designee) and requirements of [MCL 552.605e\(1\)](#) were met by a *preponderance of the evidence*. See [MCL 552.605e\(1\)](#); [MCL 552.605e\(7\)](#).

were NOT submitted and requirements of [MCL 552.605e\(1\)](#) were met by *clear and convincing evidence*. See [MCL 552.605e\(1\)](#); [MCL 552.605e\(7\)\(d\)](#).

[MCL 552.605e\(1\)](#) requires the plan to be in the best interest of the parties and children and that either of the following applies:

The arrearage is owed to an individual payee and

the payee has consented to entry of the order under circumstances that satisfy the court that the payee is not acting under fear, coercion, or duress, AND

the payer establishes that the arrearage did not arise from conduct by the payer engaged in exclusively for the purpose of avoiding a support obligation. [MCL 552.605e\(1\)\(a\)](#).

The arrearage is owed to Michigan or a political subdivision of Michigan, and the payer establishes

that the arrearage did not arise from conduct by the payer engaged in exclusively for the purpose of avoiding a support obligation;

the payer has no present ability, and will not have an ability in the foreseeable future, to pay the arrearage absent a payment plan;

the payment plan will pay a reasonable portion of the arrearage over a reasonable period of time in accordance with the payer's current ability to pay; AND

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<sup>1</sup>Good cause includes, but is not limited to, the payee becoming a recipient of public assistance, or the payer receiving property sufficient to pay a substantial portion of the amount discharged, including, but not limited to, lottery proceeds, other winnings, a settlement under an insurance policy or a judgment in a civil action, or an inheritance. [MCL 552.605e\(4\)](#).

- the Office of Child Support or its designee has been served with a copy of the motion at least 56 days before the hearing. [MCL 552.605e\(1\)\(b\)](#).<sup>2</sup>
- Require additional conditions in payment plan (in addition to the payment of support) determined to be in the best interests of the child, including, but not limited to:
  - A payer's participation in a parenting program.
  - Drug and alcohol counseling.
  - Anger management classes.
  - Participation in a batterer intervention program that meets the standards recommended by the governor's task force on batterer intervention standards.
  - Participation in a work program.
  - Counseling.
  - Continuing compliance with a current support order. See [MCL 552.605e\(5\)](#).
- Enter [Order Regarding Payment Plan/Discharge of Arrears](#).

**Completion of payment plan.** If, after notice and a hearing, the court finds that the payer has completed the payment plan, it *must* enter an order discharging the remaining arrearage (if any).<sup>3</sup> [MCL 552.605e\(2\)](#).

**Partial completion of payment plan.** If the court finds that the payer has substantially completed the payment plan, it *may* enter an order granting "relief appropriate to the circumstances of the case." [MCL 552.605e\(2\)](#).

For court forms related to domestic relations actions, see the One Court of Justice [website](#).

For additional domestic relations resources, see the Friend of the Court Bureau [website](#).

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<sup>2</sup> If the court approves a plan under [MCL 552.605e\(1\)\(b\)](#), that approval must be considered Michigan's consent to a compromise of the arrearage. [MCL 552.605e\(8\)](#).

<sup>3</sup> "A payment plan may provide for discharge of any portion of an arrearage that meets the requirements under [[MCL 552.605e\(2\)](#)], even if other portions of the arrearage do not meet those requirements." [MCL 552.605e\(3\)](#).

