249B.3 Notice of spousal support debt — failure to respond — hearing — order.

1. The department shall issue a notice establishing and demanding payment of an accrued or accruing spousal support debt due and owing to the department. The notice shall be served upon the community spouse in accordance with the rules of civil procedure. The notice shall include all of the following:

a. The amount of medical assistance provided to the institutionalized spouse which creates the spousal support debt.

b. A computation of spousal support debt, the minimum monthly maintenance needs allowance, and the community spouse resource allowance.

c. A demand for immediate payment of the spousal support debt.

d. (1) A statement that if the community spouse desires to discuss the amount of support that the community spouse should be required to pay, the community spouse, within ten days after being served, may contact the unit of the department which issued the notice and request a conference.

(2) A statement that if a conference is requested, the community spouse has ten days from the date set for the conference or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the unit of the department which issued the notice.

(3) A statement that after the holding of the conference, the department may issue a new notice and finding of financial responsibility to be sent to the community spouse by regular mail addressed to the community spouse's last known address, or if applicable, to the last known address of the community spouse's attorney.

(4) A statement that if the department issues a new notice and finding of financial responsibility, the community spouse has ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the unit of the department which issued the notice.

e. A statement that if the community spouse objects to all or any part of the notice or finding of financial responsibility and no negotiation conference is requested, the community spouse, within twenty days of the date of service, shall send to the unit of the department which issued the notice, a written response setting forth any objections and requesting a hearing.

f. A statement that if a timely written request for a hearing is received by the unit of the department which issued the notice, the spouse has the right to a hearing to be held in district court; and that if no timely written response is received, the department will enter an order in accordance with the notice and finding of financial responsibility.

g. A statement that, as soon as the order is entered, the property of the community spouse is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

h. A statement that the community spouse must notify the department of any change of address or employment.

i. A statement that if the community spouse has any questions, the community spouse should telephone or visit the department or consult an attorney.

j. Other information as the department finds appropriate.

2. If a timely written response setting forth objections and requesting a hearing is received by the unit of the department which issued the notice, a hearing shall be held in district court.

3. If timely written response and request for hearing is not received by the department, the department may enter an order in accordance with the notice, and the order shall specify all of the following:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the spousal support debt accrued and accruing in favor of the department.

c. Notice that the property of the community spouse is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

4. The community spouse shall be sent a copy of the order by regular mail addressed to the community spouse's last known address, or if applicable, to the last known address of

the community spouse's attorney. The order is final, and action by the department to enforce and collect upon the order may be taken from the date of the issuance of the order.

90 Acts, ch 1098, §3; 2003 Acts, ch 112, §6

Referred to in **§249B.2**