

West Virginia Division of Labor
Wage & Hour Section
Employer / Employee Wage Assignment Agreements

Every person, firm, or corporation doing business in this state shall settle with its employees at least twice every month and with no more than nineteen days between settlements... and pay them the wages due, less authorized deductions and authorized wage assignments for their work or services. {§21-5-3 (a)}

No assignment of or order for future wages shall be valid for a period exceeding one year from the date of assignment or order. An assignment or order shall be acknowledged by the party making the same before a notary public or other officer authorized to take acknowledgements, and any order or assignment shall specify thereon the total amount due and collectible by virtue of the same, and three fourths of the periodical earnings or wages of the assignor shall at all times be exempt from such assignment... {§21-5-3(e)}

Rules for Wage Assignments

In order for a wage assignment to be considered valid, an “Assignment of Future Wages Form” is to be completed and signed by the employee before a notary, and then signed by the employer. To be considered valid, employee wage assignments must comply with each of the following terms and conditions: (§21-5-3 & §42CSR-5-9)

- An Assignment of Future Wages Form must be completed.
- The employee’s signature must be notarized.
- All wage assignment agreements are valid for only one (1) year and must be renewed annually.
- 75% of an employee’s net (take home) earnings are exempt from wage assignment, meaning wage assignment agreements are limited to a deduction of no more than 25% of the employee’s net (take home) earnings. The same rule also applies to the employee’s final paycheck.
- All assignments are honored in the order they’re authorized.

Wage Garnishments vs. Wage Assignments

Wage assignments are not to be confused with wage garnishments. A wage assignment is merely an agreement between an employee and employer, while a wage garnishment is a court order. If an employer has been served with a wage garnishment order requiring withholdings that exceed 25% of the employee’s net wages, the employer may not enter into an assignment of wages agreement, or continue honoring any existing wage assignment agreements, while the garnishment order is in effect. {§42CSR-5-9.5}

Deductions Not Requiring a Wage Assignment

Authorized deductions for amounts required or allowed by law to be withheld such as union dues, club dues, pension plans, payroll savings plans, credit unions, charities, or hospitalization or medical insurance do not require a wage assignment. Payroll deductions for such plans may be agreed upon between the employer and employee without the requirement for a wage assignment. {§21-5-3(e) & §42CSR-5-9.4}

Deductions Requiring a Wage Assignment

The following are some examples of situations that would require a wage assignment to be in place before any monies could be withheld from an employee's wages.

- Replacement costs for lost or damaged tools or equipment.
- Repayment of personal loans.
- Drug testing or physical examination fees required by the employer after hire.

Employer Penalties

If an employer deducts an authorized amount from an employee's wages pursuant to a valid assignment of wages, a valid written authorization, or a valid wage garnishment order, but fails to pay that amount to the designated creditor or authorized plan, the deduction is considered an illegal deduction from the employee's wages. {§42CSR-5-9.5}