AR 608-99: FAMILY SUPPORT FACT SHEET

Regardless of separation, Soldiers are responsible for managing their personal affairs in a manner consistent with the Army's core values. The Soldier's responsibilities include: (1) maintaining reasonable contact with family members so that their needs and welfare do not become a matter of concern for the Army; (2) conducting themselves in an honorable manner with regard to parental and spousal commitments and responsibilities; (3) providing adequate financial support to family members; and (4) complying with any court orders or written financial agreements. To ensure each Soldier fulfills his or her responsibilities, the Army created Army Regulation (AR) 608-99, Family Support, Child Custody, and Paternity.

When Does AR 608-99 Come Into Play?

Support under AR 608-99 begins on the date the couple becomes separated and goes into effect if there is no oral or written agreement or court order addressing support. Keep in mind that an oral agreement will only remain in effect until there is a dispute. Once either party expresses dissatisfaction with the arrangement, the oral agreement will no longer be enforced, and support will be paid in accordance with AR 608-99.

How is the Amount Determined?

Absent an oral or written agreement or court order expressly addressing financial support, AR 608-99 requires the Soldier to pay a pro rata share of the Basic Allowance for Housing (BAH) II-WITH amount. This amount is the BAH allowance without consideration of the geographic duty location. The pro rata share looks like this:

$$\text{Pro Rata Share} = \frac{1}{\text{Total \# of supported family members}} \times \text{Applicable BAH II – WITH Rate}$$

For example, if a Specialist (E-4) has a child from a previous marriage living with the other biological parent and still must support the current spouse, the formula would be as follows:

$$\text{Pro Rata Share} = \frac{1}{2} \times \$732.30 = \$366.15/\text{month}$$

However, several exceptions and nuances under AR 608-99 may apply, which may eliminate or reduce the amount of support required.

What Exceptions or Rules May Apply Under AR 608-99 to Eliminate or Reduce Support?

Remember, AR 608-99 only "kicks in" if there is no oral or written agreement or court order specifically addressing financial spousal support. Additionally, under certain scenarios, the amount of support the Soldier is required to pay is less than the amount established by AR 608-99 (BAH II-WITH). These include the following:

Family in government housing: No additional support is required. However, when the spouse/family moves out, the Soldier will pay BAH II – WITH regardless of whether or not the Soldier is receiving BAH.

Other family is residing in DIFFERENT locations: Each family member NOT residing in government housing receives a pro-rata share of the Soldier's BAH II – WITH (as discussed above regarding pro rata shares).

In-Kind payments: AR 608-99 allows the Soldier to deduct certain non-government housing expenses on behalf of family members if the family members are living in that residence. Paying for any of the following may reduce or eliminate the total amount due under AR 608-99: (1) rent; (2) principal and interest due on any outstanding loan secured (i.e. mortgage), and any associated property taxes and home insurance for that property; (3) essential utilities such as gas, electricity and water.

In-kind payments do NOT include: telephone/cellular bills, cable/satellite television, car payments, or any other insurance not related to the property where the family resides.

My spouse is also on active duty: The Soldier is not required to provide financial support if there is no support agreement. With regard to children, in the absence of an agreement or order, the Soldier will provide the following:

NO Custody & Children NOT in government housing: the Soldier provides BAH – DIFF (BAH II-WITH minus BAH II-WITHOUT) to the military family member with custody.

NO Custody & Children IN government housing: no support required to the military member with custody.

Soldier has Custody: No support required.

Can the Chain of Command Ever Eliminate or Reduce the Amount Owed?

If the support is obligated under AR 608-99, which means there is no oral, written or court order addressing support, in limited circumstances, the battalion commander or Special Court-Martial Convening Authority (SPCMCA, usually brigade commander) may reduce or eliminate the amount owed. However, even if the Soldier's situation aligns with the exception(s) provided in the Regulation, it is still only discretionary and must be reviewed by the commander's legal advisor. Some bases for a battalion commander or SPCMCA to excuse support include:

1. Order issued by a court without jurisdiction.

2. Income of spouse exceeds that of the soldier.

3. Soldier has been the victim of substantiated domestic abuse.

4. The supported family member is in jail.

5. Soldier has supported the spouse for 18 consecutive months after separation (clearly documented).

6. Supported child is in custody of another who is not the lawful custodian.

7. As a matter of fundamental fairness.

We encourage you to read AR 608-99, 2-14 and 2-15 and consult with our office if you feel any of these bases for excusal apply to you.

Will the Amount of Support I Owe Under 608-99 Ever Increase?

A support obligation under 608-99 may increase for two common reasons:

(1) BAH II charts are updated each year. Just like regular BAH amounts, BAH II amounts often rise and adjust due to inflation: or

(2) If promoted, the Soldier must increase support with the new pay grade.

When Does Support End?

Support for the previous month is due on the 1st of the following month, or, if mailed, must be mailed by first-class and post-marked by the 1st. Payment may be made by allotment, cash, check, money order, electronic fund transfer, voluntary allotment, involuntary allotment, or garnishment. Whichever form of payment is used, make sure you can document and track all payments.

What Can My Commander Do If I Don't Pay?

The commander is responsible for enforcing 608-99. Although the commander cannot order you to pay arrears (the past due amounts), he or she can order you to pay once he or she becomes aware of valid support obligations. If the Soldier refuses to pay after he or she has been ordered, the commander may take the following action(s):

1. Counseling
2. Admonition
3. Memorandum of Reprimand
4. Bar reenlistment
5. Administrative separation
6. Nonjudicial punishment under UCMJ, Art. 15
7. Court-martial; charged with violating UCMJ, Art. 92