

What happens to a service member's BAH when he or she does not provide adequate support to family members?

The answer is found in Interim Change Number 24-03, June 12, 2003, to the DoD FMR, Volume 7A.

Section 260406 is titled: Support of Dependent - General.

Subsection A states: "The statutory purpose of BAH on behalf of a dependent is to at least partially reimburse members for the expense of providing private quarters for their dependents when government quarters are not furnished, and not to pay BAH on behalf of a dependent as a bonus merely for the technical status of being married or a parent. Proof of support to a lawful spouse or unmarried, minor, legitimate child of a member is generally not required. However, when evidence or complaints from dependents of nonsupport or inadequate support of dependents are received, proof of adequate support as stated in subparagraph E is required."

Subsection B then states: "A member who fails to support a dependent on whose behalf BAH is received is NOT ENTITLED to BAH on behalf of that dependent. Recoup for periods of nonsupport or inadequate support. ... If a member is not entitled to BAH for dependents under any of the subsequent subparagraphs, consider entitlement to without-dependent or partial-rate BAH under section 2602."

Subsection E deals with "Adequate Support". It states:

"If the support requirements are not established by court order or legal separation agreement, a member must provide support in an amount that is not less than the BAH-DIFF rate applicable to the member's grade."

So subsection B says to "recoup BAH" - but to look to see if the member is entitled to BAH for other reasons. The bottom line is that finance might be able to recoup ALL the BAH, or that if finance determines that the service member is otherwise entitled, will only be able to recoup part of the BAH.

And, if the service member provides "adequate support" - BAH-DIFF - no recoupment appears available.

Legal Assistance
242-5084