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137-055-4130

## Reduced Income Withholding

(1) The Department of Justice may ~~administrator will~~ set a lesser an amount less than the amount prescribed by ORS 25.414 to be withheld if:

~~(a) W~~ withholding is only for arrears, and the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a;

(a) A child the obligor has a duty to support; and or

(b) The obligor's basic needs.

(2) For the purposes of sections (3) and (4) of this rule, "the obligor's household" means the obligor's personal residence.

(3) In determining the obligor's basic needs and the number and basic needs of other persons in the obligor's household, in addition to the factors outlined in ORS 25.414(5), the administrator will consider:

(a) The obligor's relationship to the person, including whether the person is a relative or part of a domestic partnership, as defined in ORS 106.310;

(b) Whether there is a duty for the obligor to support the person under ORS 108.040, 108.045 or 109.010; and

(c) Whether the person has available resources.

(4) In considering the basic needs of the obligor and other persons in the obligor's household as outlined in ORS 25.414(5), the administrator may require the obligor to provide documentation, including but not limited to doctor's statements, pay stubs, tax return information, a uniform income statement form or other asset information. The administrator also may require the obligor to provide documentation showing that a person resides in the obligor's household.

(5) If arrears are assigned to the state because the child for whom support was ordered was in the care and custody of the Oregon Youth Authority (OYA) or the Department of Human Services (DHS), a representative from those agencies must approve the reduced withholding.

~~(A) If arrears are owed to the obligee and the obligee agrees to a reduced withholding amount;~~

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~~(B) If arrears are owed to the child attending school under ORS 107.108 and OAR 137-055-5120 and the child attending school agrees to a reduced withholding amount.~~

~~(b) Child support is currently assigned to the state and the child is in the care or custody of the Oregon Youth Authority (OYA) or the Department of Human Services (DHS), the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support, and the state and the obligor agree in writing to a reduced amount of withholding.~~

~~(2) If the provisions in subsection (1)(b) apply, the Division of Child Support (DCS) may submit an agreement for reduced income withholding to the DHS child welfare program or OYA for approval or denial.~~

~~(3) Upon receiving notice of an approval or denial of an agreement, DCS will notify the obligor. If the DHS child welfare program or OYA do not respond within 30 days of receiving an agreement, the agreement will be deemed denied.~~

~~(4) If the agreement is approved, the agreement does not take effect until it has been signed by the obligor and returned to DCS.~~

~~(5) If the obligor does not agree with the agency's denial of an agreement, the obligor may file a grievance with the DHS child welfare program or OYA pursuant to OAR 413-010-0450 or 416-100-0070.~~

~~(6)~~ **5** A written **An** agreement for a reduced amount of withholding may terminate and income withholding for the full amount allowable by law may be reinstated, unless the obligor otherwise qualifies for an exception pursuant to OAR 137-055-4080 or OAR 137-055-4100, when:

~~(a) The child(ren) leave(s) the care or custody of the state agency to which support has been assigned;~~

~~(b) According to the case record or as notified by the DHS child welfare program or OYA, the obligor is out of compliance with the agreement; or~~

~~(c)~~ **b** The time period covered by the agreement has expired.

Stat. Auth.: ORS 25.414, 180.345

Stats. Implemented: ORS 25.414

Effective: January 3, 2012