

137-050-0715

Income

(1) "Income" means the actual or potential gross income of a parent, as determined in this rule. **includes a parent's actual gross earnings and income from any source, including but not limited to:**

(2) "Actual income" means all earnings and income from any source, except as provided in section (4). Actual income includes but is not limited to:

(a) Employment-related income including salaries, wages, commissions, advances, bonuses, dividends, **recurring overtime pay**, severance pay, pensions, and honoraria;

(b) **Expense reimbursements, allowances, or in-kind payments to a parent, to the extent they reduce personal living expenses;** Return on capital, such as interest, trust income and annuities;

(c) **Annuities, trust income, including distribution of trust assets, and return on capital, such as interest and dividends;**

(d) Income replacement benefit payments including Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, **and Veteran's Administration disability benefits;**

~~(d)~~ **(e) Inheritances, Gifts and prizes, including lottery winnings; and**

~~(e)~~ **(f) Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, minus costs of goods sold, minus ordinary and necessary expenses required for self-employment or business operation, including one-half of the parent's self-employment tax, if applicable.** Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the fact finder to be inappropriate or excessive for determining gross income; ~~and~~.

~~(f)~~ Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business are income to the extent they reduce personal living expenses.

(3) To determine average monthly income when wages are paid weekly, multiply the weekly earnings by 52 and divide by 12. To determine average monthly income when wages are paid every two weeks, multiply the bi-weekly income earnings by 26 and divide by 12.

~~(4)~~ **(2) Child support, food stamps, Social Security or Veterans' benefits received on behalf of a child in the household,** adoption assistance, guardianship assistance,

and foster care subsidies are not considered income for purposes of this calculation.

~~(5) "Potential income" means the greater of:~~

~~(a) The parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or~~

~~(b) The amount of income a parent could earn working full-time at the current state minimum wage.~~

~~(6) Income is presumed to be the amount determined as potential income in the following scenarios:~~

~~(a) An unemployed parent;~~

~~(b) A parent employed on less than a full-time basis;~~

~~(c) A parent with income less than Oregon minimum wage for full-time employment; or~~

~~(d) A parent with no direct evidence of any income.~~

~~(7) Income is presumed to be the parent's actual income in the following scenarios:~~

~~(a) A parent working full-time at or above the state minimum wage;~~

~~(b) A parent unable to work full-time due to a verified disability;~~

~~(c) A parent receiving workers' compensation benefits;~~

~~(d) An incarcerated obligor as defined in OAR 137-055-3300; or~~

~~(e) When performing a calculation for a temporary modification pursuant to ORS 416.425(13), except as provided in section (9) of this rule.~~

~~(8) The presumptions in sections (6) and (7) of this rule may be rebutted by a finding that the presumption is inappropriate in light of the parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community.~~

(9) (3) If a parent's actual income as determined in section 1 of this rule is less than the parent's potential income, the court, administrator, or administrative law judge may impute the additional potential income to the parent.

(a) Determine potential income based on relevant work history, including hours

typically worked by or available to the parent, occupational qualifications, education, physical and mental health, employment potential in light of prevailing job opportunities and earnings levels in the community, and any other relevant factors. A determination of potential income includes potential income from any source described in section 1 of this rule.

(b) If insufficient information about the parent's income history is available to make a determination of earning ability, the parent's earning ability is equivalent to the amount of money the parent could earn working full-time at the minimum wage applicable to the state in which the parent resides.

(c) Potential income may not be imputed to the following parents:

(A) A parent unable to work full-time due to a verified disability;

(B) A parent receiving workers' compensation benefits;

(C) An incarcerated obligor as defined in OAR 137-055-3300; or

(D) A temporary modification under ORS 416.425(13).

(4) To determine monthly income when the employee is paid:

(a) Weekly, multiply the weekly earnings by 52 and divide by 12.

(b) Every two weeks, multiply the bi-weekly earnings by 26 and divide by 12.

(c) Semimonthly (twice per month), multiply the semimonthly earnings by 2.

(5) Notwithstanding any other provision of this rule, if the parent is a recipient of **receives** Temporary Assistance for Needy Families, the parent's income is presumed to be the amount which could be earned by full-time work at the current state minimum wage. This income presumption is solely for the purposes of the support calculation and not to overcome the rebuttable presumption of inability to pay in ORS 25.245.

~~(10)~~ **(6)** As used in this rule, "full-time" means 40 hours of work in a week except in those industries, trades or professions in which most employers, due to custom, practice or agreement, utilize a normal work week of more or less than 40 hours in a week.

Stat. Auth.: ORS 25.270 – 25.290, 180.345

Stats. Implemented: ORS 25.270 – 25.290

Effective date: