

draft

137-050-0740

Social Security and Veterans Benefits; Dollar-for-Dollar Reduction in Support Obligation¹

(1) For the purposes of this rule:

(a) "Apportioned Veterans benefits" means the amount the U.S. Department of Veterans Affairs deducts from an obligated parent's Veterans benefits and disburses to the child or to the child's representative payee; and

(b) "Social Security benefits" refer to those benefits paid on behalf of a disabled or retired obligated parent to a child or a child's representative payee.²

(2) The cash child support obligation may be reduced dollar for dollar in consideration of any Social Security or apportioned Veterans benefits; and

(3) The cash child support obligation must be reduced dollar for dollar in consideration of any Survivors' and Dependents' Educational Assistance (Veterans benefit) under 38 U.S.C. chapter 35.

(4) A parent is not entitled to a reduction in support for Veterans or Social Security benefits:

(a) that result from the child's own disability,³

(b) for which the obligated parent is the representative payee, or

(c) that do not result from the obligated parent's own disability or retirement, or, in the case of subsection (3), from that parent's military service.

Stat. Auth: ORS 25.270 – 25.290, 180.345

Stats. Implemented: ORS 25.270 – 25.290

Effective date:

¹ **Commentary: A reduction in support pursuant to this rule is applied after the \$100 minimum order presumption in OAR 137-050-0755. The reduction is applied first to cash child support, and then to any cash medical support. It may reduce support below \$100 or eliminate it entirely. This adjustment does not change the determination of which parent(s) should be obligated to pay support. It is subject to rebuttal pursuant to ORS 25.280 and OAR 137-050-0760 and to the agreed support amount pursuant to OAR 137-050-0765.**

² **Commentary:** If a parent's disability or retirement results in a child receiving Social Security or Veteran's benefits, include the benefits in that parent's column **(except as provided in section 4)**. ~~Include benefits paid to the child based on either parent's disability or retirement, whether you expect that parent to pay or receive support. This is necessary because the calculator has not yet ascertained which parent is the obligated parent (see OAR 137-050-0710(1)(i)).~~ Except where both parents' obligations are being determined for a Child Attending School, a child with a caretaker, or a child in state care, only the disabled or retired obligor's support obligation is ultimately reduced. **See OAR 137-050-0710(1)(i)(D)**.

³ **Commentary:** Social Security death/survivor benefits and Social Security benefits based on the child's disability are not addressed under this rule because such benefits are not derived from either party to the support order. Death benefits should be treated as income to the child only and should be considered, when appropriate, through rebuttal under OAR 137-050-0760.