

137-055-2360

Obligor Chapter 7 and Chapter 11 Bankruptcy Situations

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to Chapter 7 and Chapter 11 bankruptcies filed on or after October 22, 1994.

(1) Upon receiving notification of bankruptcy, the administrator shall:

(a) Stop any legal action that is pending, except as follows:

(A) Legal action to establish paternity and/or support.

(B) Modification services.

(b) Leave any existing income, unemployment, or worker's compensation withholding orders in place. In a Chapter 7 bankruptcy, collections shall continue against post-petition earnings for both current support and for both pre-petition and post-petition arrears. In a Chapter 11 bankruptcy, collections shall continue for current support and post-petition arrears. If no withholding order is in place, the administrator shall obtain a withholding order, as appropriate, when employment becomes known as the Automatic Stay does not apply in this situation.

(c) Determine if there are any other enforcement actions in process which may be stayed or which may involve property of the bankruptcy estate, such as a writ of garnishment, license suspension, and interception of tax refunds. Terminate any action that involves property of the bankruptcy estate and notify the Division of Child Support so that property of the estate that has not been distributed can be returned to the bankruptcy trustee.

(2) The administrator shall file no Proof of Claim if no assets are involved in a Chapter 7 bankruptcy.

(3) If there are assets in a Chapter 7 bankruptcy, the administrator shall file a Proof of Claim, if applicable, even if the time period for filing a Proof of Claim has passed.

(4) In a Chapter 11 bankruptcy, the administrator shall file a Proof of Claim for current child support and arrears owed at the time the petition was filed, if any.

(5) The administrator respond to any objections filed to the Proof of Claim.

(6) The administrator shall petition the Bankruptcy Court for a Relief from Stay unless there is evidence that the bankruptcy will close or the Plan Confirmed before a relief from stay can be obtained. This shall apply if the bankruptcy stay prevents the next enforcement action that is needed in a child support case.

(7) In a Chapter 7 bankruptcy, the administrator shall not file or otherwise cause a property lien to be filed until the bankruptcy is closed or dismissed, unless an appropriate Relief of Stay is obtained. In a Chapter 11 bankruptcy, a property lien may be filed after the Plan is confirmed if

the property reverts to the obligor.

Stat. Auth.: section 2, chapter 73, Oregon Laws 2003

Stats. Implemented: section 2, chapter 73, Oregon Laws 2003