

137-055-2380

Obligor Chapter 12 and Chapter 13 Bankruptcy Situations

This rule details Child Support Program responsibilities in situations of obligor bankruptcy and applies to Chapter 12 and Chapter 13 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) Terminate any administrative or judicial orders to withhold and any withholding order for unemployment compensation and worker's compensation.

(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 garnishment of bank accounts 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 a Proof of Claim for current child support and arrears owed at the time the petition was filed, in any, if the time period for filing a Proof of Claim has not passed.

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

(4) The administrator shall review the Summary of Plan or proposed Plan and the Debtor's Schedule J, if available, for the repayment of arrears and for payment of ongoing child support.

(a) If the time period for filing objections has not passed, the administrator shall file an objection to a Plan if the plan is not feasible.

(b) If the Plan does not provide for pre-petition arrears, the administrator shall file an objection to have the pre-petition arrears included in the plan if the time period for filing an objection has not passed.

(5) After confirmation, if the property of the estate has reverted in the debtor, the administrator shall resume collection on current child support and post-petition arrears. If the Plan provides for the pre-petition arrears, collection of the pre-petition arrears will be governed by the terms of the Plan.

(6) The administrator shall petition the bankruptcy court for a Relief from Stay if the bankruptcy stay prevents the next enforcement action that is needed in a child support case.

(7) The Automatic Stay prevents the filing of a property lien for pre-petition arrears until such time as the bankruptcy is discharged. The administrator shall not file or otherwise cause such property lien to be filed until the bankruptcy is discharged, unless an appropriate Relief of Stay is obtained.

Stat. Auth.: section 2, chapter 73, Oregon Laws 2003
Stats. Implemented: ORS 25.080