

## **137-055-4060**

### **Income Withholding -- General Provisions, Requirements and Definitions**

(1) OAR 137-055-4060 through 137-055-4180 shall provide for collection of support by means of income withholding, in accordance with ORS 25.372 through 25.427 and all other applicable Oregon law, on all support cases being enforced by the administrator.

(2) For purposes of OAR 137-055-4060 through 137-055-4180 and as used in ORS 25.372 through 25.427, the following definitions shall apply:

(a) "Alternative payment method" means the methods of paying support that are described in OAR 137-055-4120;

(b) "Best interests of the child" means the method of payment likely to produce consistent support which will reach the child(ren) in the most expedited manner.

(c) "Disposable income" means the part of an individual's income that remains after the deduction of any amounts required to be withheld by law, except as provided in subsections (B) or (C) of this section.

(A) Amounts required to be withheld by law includes, but is not limited to, required withholding for taxes and social security;

(B) Any amounts withheld for the following shall not be deducted from the obligor's income when computing disposable income, even if such withholding is required by law or by judicial or administrative order:

(i) Health insurance premiums;

(ii) Spousal or child support.

(C) An obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income withheld. The obligor has the burden of proving such claims and must therefore furnish verifiable business records or documents to support any offsets claimed. The obligor also has the burden of furnishing such records or documents in a timely manner, and DCS shall not refund to the obligor, on the basis of such claims, any amounts withheld that DCS has already disbursed to the obligee;

(d) "Good cause" for not withholding means a situation that exists when:

(A) A court or the administrator makes a written determination that, and a written explanation in the official record of why, immediate income withholding would not be in the best interests of the child; and

(B) If the case involves the modification of an existing support order, there is proof of timely payment of previously-ordered support and there are no arrears. Timely payment is indicated when the obligor has not previously become subject to initiated income withholding under the existing order.

(e) "Periodic recurring income" as used in calculating withholding from a lump sum payment or benefit pursuant to ORS 25.414(4), means income that is received at least

monthly on a regular basis.

(3) All support orders issued or modified by the administrator shall include a provision requiring the obligor to keep the administrator informed of:

(a) The name and address of the obligor's current employer;

(b) Whether or not the obligor has access to health insurance coverage at reasonable cost, and if so, the health insurance policy information.

Stat. Auth.: ORS 25.427; ORS 180.345

Stats. Implemented: ORS 25.372 – 25.427; ORS 656.234; ORS 657.780; ORS 657.855

Effective: January 29, 2004