

137-055-7180

Order Determining Controlling Order

(1) A determination identifying a single controlling order that will be entitled to prospective enforcement in this and every other state will be made under this rule:

(a) In a proceeding brought under ORS chapter 110 if two or more child support orders have been issued regarding the same obligor, child and obligee; or

(b) Upon the written request of a party which meets the requirements set forth by ORS 110.333.

(2) For purposes of this rule, any order modified or issued after October 20, 1994 (the effective date of the Full Faith and Credit for Child Support Orders Act, 28 USC 1738B), will be interpreted as a modification of all orders issued prior to October 20, 1994, unless:

(a) The tribunal entering the order did not have jurisdiction to do so;

(b) Such order is challenged by a party for lack of personal jurisdiction; or

(c) Such order is challenged by a party for lack of subject matter jurisdiction.

(3) When the administrator cannot assert personal jurisdiction over the individual parties, the request for a controlling order determination will be forwarded to the central registry of the state that can assert personal jurisdiction over the non-requesting party.

(4) When the administrator can assert personal jurisdiction over the parties, the administrator will issue an other than contested case order determining the controlling order. The order will be served upon the parties by certified mail, return receipt requested, at the last known address of the parties. The order will include:

(a) A statement including the basis for personal jurisdiction over the parties;

(b) A statement of the name of the parties and the name of the dependent child(ren) for whom support was ordered;

(c) A statement of each child support order which was considered, the county and state which issued the order and the date of the order;

(d) A statement of the order which the administrator determined to be the controlling order for prospective support and the basis upon which the tribunal made its determination;

(e) A statement that the controlling order determination is effective on the date the order is issued by the administrator;

- (f) A reference to ORS 110.333;
 - (g) A statement that a party may submit further information and petition the administrator for reconsideration of the order within 60 days of the date of the order;
 - (h) A statement that OAR 137-004-0080 applies to any petition for reconsideration of the order determining the controlling order issued by the administrator;
 - (i) A statement that a party who is adversely affected or aggrieved by the order may appeal the order to the circuit court of Marion county or the county in which the petitioner resides or has a principal business office in accordance with ORS 183.484.
- (5) When the administrator determines that none of the tribunals would have continuing, exclusive jurisdiction under ORS chapter 110, the administrator will notify the parties in writing of the determination and establish a new child support order which will be the controlling order.
- (6) For the purposes of determining the Oregon county in which the administrator may enter the order determining the controlling order, the following provisions apply:
- (a) If one or more Oregon court files exist for the same obligor and child, the order will be entered in each existing court file;
 - (b) If an Oregon court file does not exist, the administrator will enter the documents required by ORS 416.440 in the circuit court in the county where the party who lives in Oregon resides.
- (7) Within 30 days after the expiration of the appeal or reconsideration period, the administrator will certify copies of the order determining the controlling order and file one with each tribunal that issued or registered an earlier order of child support.
- (8) Upon written receipt of an order determining the controlling order that a tribunal of this or another state properly issued, the administrator will:
- (a) Adjust the Oregon case record to cease prospective accrual on any noncontrolling order and initiate accrual on any controlling order which was issued or registered by an Oregon tribunal on the date specified in the order determining controlling order or, when not specified, in accordance with OAR 137-055-5040; and
 - (b) When one of the noncontrolling orders was issued by an Oregon tribunal, ensure that the order determining the controlling order is entered in the Oregon circuit court for the county which issued or entered the prior order.
- (9) Nothing in this rule may be construed to limit the authority of another tribunal in this or any other state in issuing an order determining a controlling order consistent with applicable laws and procedural rules.

Stat. Auth.: ORS 25.729 and 180.345

Stats. Implemented: ORS 110.327 and ORS 110.333

Effective: July 1, 2004