

137-055-4420

License Suspension

(1) For the purposes of this rule the following definitions apply:

(a) "License" means any of the licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driving privileges granted by the Department of Transportation under ORS chapter 807 which includes all driving licenses and permits, and all permanent and fee-based annual hunting and fishing licenses issued by the Oregon Department of Fish and Wildlife;

(b) "Administrative review" means a review of the obligor's objection to proposed action under this rule performed by the administrator to determine whether:

(A) The arrears exceed the threshold;

(B) The licensee is the obligor;

(C) The obligor is in compliance with a previous agreement;

(D) An income withholding order is in place and producing regular payments;

(E) The obligor has made payments in an amount greater than the monthly support amount for the three months previous to selection of the case and that those payments were not as a result of a garnishment, tax offset or some other enforcement action; and

(F) The obligor is ordered to pay current support payments.

(2) This rule governs the process for suspending any license as defined in subsection (1)(a) of this rule of any obligor in a child support case in which there is a judgment to pay current support and the original support order was entered at least three months prior to initiating the process for license suspension, who owes \$2,500 or more in past-due child support or whose support arrears are equal to at least three times the current monthly child support obligation, whichever occurs later, subject to the provisions herein.

(3) Cases that qualify for initiation of the process described in this rule will be identified by data matches and terminal access with license issuing entities, and by information received from other sources. Information from other sources will be verified with the licensing agency. The Division of Child Support (DCS) will be the liaison with the licensing agencies. The administrator will verify issuance of licenses to individuals through DCS when those licenses have been identified by means other than data match or terminal access.

(4) If any of the following conditions are found, the administrator will take no further action toward suspension of a license under this rule until such a time as the condition no longer exists:

(a) The case is an arrears only case;

(b) The child support arrears are less than the standard set in section (2) of this rule, excluding any and all spousal support;

(c) The obligor has previously entered into an agreement and is in compliance with the agreement; or

(d) The obligor has made payments for the prior three months that have been for an amount greater than current support each month. These payments must not have been as a result of garnishment, tax offset or any non-income withholding enforcement action.

(5) If the administrator determines that none of the conditions in section (4) of this rule applies or no longer applies, the administrator may initiate or continue action under this rule. The administrator may use the process described in this rule as one of several enforcement options available and may exercise discretion to optimize collection potential in individual cases. The administrator will prioritize this enforcement option in decision making based on availability and application of other enforcement options and available staff resources.

(6) If the administrator determines that the case meets the criteria for action under this rule and decides to proceed, the administrator will initiate two notices to the obligor. One notice will be sent to the address of record of the issuing agency, and a second notice to the obligor's address of record on the case record. Both notices will be sent to the obligor by regular mail and will include a form to contest the suspension of the license. If the address of record maintained by the administrator and the issuing agency are the same, the administrator may send only one copy of the notice to suspend and the accompanying forms. A copy of the notice and forms sent to the obligor will be sent by regular mail to the other parties to the case.

(7) The content of notices in section (6) of this rule will contain the following information:

(a) The specific license(s) subject to suspension and a statement that other licenses may be subject to suspension;

(b) The name of the person whose license is subject to suspension, and social security number, if available, and date of birth, if known;

(c) The child support case number or numbers of the person subject to suspension;

(d) The amount of the arrears and amount of the current child support obligation;

(e) The procedure for contesting the suspension and the basis for contesting the suspension. The only grounds for contesting the suspension are:

(A) The child support arrears are less than the standard set in section (2) of this rule;

(B) There is mistake in identity of the obligor; or

(C) The obligor is in compliance with a previous agreement as provided by ORS 25.750 to 25.783.

(f) A statement that the obligor may enter into a written agreement, compliance with which will preclude suspension of the license. The obligor has 30 days from the date of the notice to contact the administrator about entering into a written agreement. The agreement must be entered into within 30 days of the obligor's contact with the administrator. If the obligor qualifies for a hardship pursuant to section (10) of this rule, the agreement may temporarily be for payment of less than the 120% of the current monthly child support obligation;

(g) A statement that the administrator may make a demand upon the obligor to furnish sufficient income information to determine an agreement amount and that failure to provide sufficient income information will result in license suspension;

(h) A statement that the obligor has 30 days from the date of the notice in order to contest the suspension by requesting an administrative review in writing on a form included with the notice; and

(i) A statement that failure to contact the administrator within 30 days from the date of the notice specified in this subsection and entry into a written agreement within 30 days of contacting the administrator, or to request an administrative review within 30 days from the date of the notice, will result in notification to the issuing agency to suspend the license.

(8) Any agreement under subsection (7)(f) of this rule must:

(a) Be in writing and signed by the obligor;

(b) Specify the due date for payments or, if the hardship provisions of section (10) of this rule apply, the dates for completion of other negotiated activities required of the obligor. The administrator may negotiate a due date other than the due date on the case record;

(c) State the amount of the payment. Unless the hardship provisions of section (10) of this rule apply, the amount of the payment will be the amount that could be obtained from an income withholding order pursuant to ORS 25.414. Assume Oregon minimum wage for the obligor in determining income level if the obligor claims income in an amount less than minimum wage and no evidence is found that the obligor has income

in an amount greater than Oregon minimum wage;

(d) State that the payment may be made through income withholding (which may occur when the administrator did not previously know about the income source);

(e) State that the agreement may be amended if there is a change in the amount of current child support;

(f) State that the agreement may be amended if there is a change in income which would change the agreement amount per the calculations in subsection (8)(c) or section (10) of this rule;

(g) State that the agreement is terminated if the obligor fails to comply with the terms of the agreement;

(h) State that failure to comply with terms of the agreement will result in notification to the issuing agency to suspend the license;

(i) State that the agreement does not preclude other enforcement actions to collect current child support and arrears, including, but not limited to, income withholding, and state and federal income tax offset;

(j) Include a statement that the obligor is required to notify the administrator within 10 days when there is a change in employment; and

(k) State that information voluntarily provided may be used in other enforcement actions, including contempt actions.

(9) Any agreement made pursuant to this rule may be voided by the administrator if either subsections (9)(a) or (b) of this rule apply. If an agreement has been so voided, the administrator will begin the process of entering into a new agreement.

(a) The income of the licensee/obligor changes; or

(b) The licensee/obligor has under reported income in establishment of the agreement.

(10) Under the conditions and time frames set out in section (11) of this rule, an exception to the requirements of subsection (8)(c) of this rule may be made if the obligor claims a hardship. Hardships may be granted for conditions that limit an obligor's ability to pay the amount that could be obtained from an income withholding order pursuant to ORS 25.414. If the obligor claims a hardship and complies with the conditions for this exception, the administrator may enter into a compliance agreement with the obligor to:

(a) Require payment of 100 percent of the current support amount for the case if the obligor has only one child support case. If the obligor has multiple child support cases,

the administrator may limit the amount of the payment agreement to the lesser amount of 100% of the current support amount or that case's pro rata share of 50 percent of disposable earnings based on amounts of monthly support obligations per case; or

(b) Require other terms of compliance if the obligor demonstrates an inability to pay the amount per subsection (a) of this section. The compliance agreement may:

(A) Require a payment amount lower than 100% of the current support amount;

(B) Require a combination of a lesser payment amount and the obligor's participation in activities to enhance the obligor's ability to pay child support; or,

(C) If the obligor demonstrates no ability to pay, require the obligor to participate in activities to enhance the obligor's ability to pay child support with no payment.

(11) The conditions and time frames for exceptions under section (10) of this rule are:

(a) For a hardship based on a claim of a substantial change in circumstances, the obligor agrees to request a periodic review and modification or a substantial change in circumstance modification under the provisions of OAR 137-055-3420. The compliance agreement will be reviewed by the administrator after the administrator finishes the review and modification process. If the compliance agreement is granted pending the obligor's request for a modification and the obligor has not completed and returned the necessary paperwork to the administrator within 30 days, the compliance agreement will be reviewed for possible termination.

(b) For a hardship claim when the obligor does not qualify for a change in circumstances modification and for any other hardship claim, the administrator will review the compliance agreement at least once during the initial three month period. The administrator may enter into further compliance agreements with the obligor, however, at minimum, the terms of compliance will be reviewed after each six month period and the payment amount increased until the amount of the payment is the amount that could be obtained from an income withholding order pursuant to ORS 25.414.

(12) The administrator will provide notice to the other parties of any agreement entered into by sending the parties a copy of the agreement.

(13) If the administrator determines that the suspension of the license should occur the parties will receive written notice of such determination. The notice will include the following:

(a) The basis for the determination;

(b) The right to appeal the determination and a form on which to make the appeal;

(c) The time limit for making an appeal is 30 days; and

(d) That if no appeal of the suspension is received within 30 days, the licensing agency will be notified to suspend the license immediately.

(14) An appeal of the determination in section (13) of this rule will be to an administrative law judge and the suspension of the license is stayed pending the decision of the administrative law judge. The only grounds for an appeal are:

(a) There is a mistake in the amount of the arrears and the arrears balance is less than the threshold for initiation of action under this rule;

(b) A mistake in identity of the obligor; or

(c) That the obligor has previously entered into an agreement and is in compliance with that agreement.

(15) If the obligor fails to enter into an agreement or fails to appeal the determination within the time period allowed, or if the administrative law judge's order supports the suspension of the license, the administrator will send a notice to the issuing agency to suspend the license. A copy of this notice will be sent to the parties by regular mail.

(16) The notice to the issuing agency to suspend the license will contain the following:

(a) A statement that a child support case record is being maintained by DCS and the case is being enforced by the administrator; and

(b) A statement that the holder of the license is in arrears in excess of \$2,500 or three times the current monthly support amount, whichever occurs later, and either:

(A) The holder has not entered into an agreement; or

(B) The holder is not in compliance with an agreement.

(17) At any time after suspension of the license, the obligor may request that the administrator make a review to determine if the condition(s) that resulted in the suspension continues to exist. The administrator will review the suspension and notify the issuing agency if it is determined that the license may be reinstated, contingent upon the requirements of the issuing agency, when any of the following conditions are met:

(a) There is no longer a current child support order;

(b) The arrears are less than the threshold for suspension;

(c) There is no longer a child support program case;

(d) The obligor has entered into an agreement and has shown compliance with the terms of the agreement; or

(e) There is an income withholding order now in place and producing regular payments.

(18) Notwithstanding section (17), at any time the administrator reviews the case and determines the condition(s) that resulted in the suspension no longer exist, the administrator will notify the issuing agency that the license may be reinstated, contingent upon the requirements of the issuing agency.

(19) In the event that an obligor has more than one child support case, the Child Support Program Director will determine and assign a single branch office that will be responsible for services relating to that obligor under this rule. All other enforcement services will be provided by the administrator otherwise assigned to the obligor's case(s).

Stat. Auth.: ORS 25.750 and 180.345

Stats. Implemented: ORS 25.750 - ORS 25.783

Effective Date: January 3, 2006