

137-055-3420

Periodic Review and Modification of Child Support Order Amounts

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

(a) "Determination" means an order resulting from a periodic review which finds that the current order of support is in "substantial compliance" with the Oregon guidelines.

(b) "Guidelines" means the formula, the scale, and related provisions in OAR 137-050-0320 through 137-050-0490.

(c) "Periodic Review" means proceedings initiated under ORS 25.287.

(d) "Review" means an objective evaluation by the administrator of the information necessary for application of the guidelines to determine:

(A) The presumptively correct child support amount; and

(B) The need to provide in the order for the child's health care needs through health care coverage or other means, not to include Medicaid, regardless of whether an adjustment in the amount of child support is necessary.

(e) "Substantial compliance" means that the current support order is within at least 15 percent or \$50, whichever is less, of the presumptively correct child support amount as calculated using the guidelines. When making this determination, the 15 percent or \$50 formula will be applied to the currently ordered support amount.

(2) For all child support cases receiving support enforcement services under ORS 25.080, the Child Support Program will annually notify the parties of their right to request a periodic review of the amount of support ordered.

(3) The purpose of a periodic review is to determine, based on information from the parties and other sources as appropriate, whether the current child support order should be modified to assure substantial compliance with Oregon's child support guidelines, or to order health care coverage for the child(ren).

(4) The administrator may initiate a periodic review if a written request for periodic review is received from any party and 24 months have passed since the date the most recent support order took effect, or the date of a determination that the most recent support order should not be adjusted.

(5) The administrator must complete the determination that the order is in substantial compliance with the guidelines or complete the modification of the existing order within 180 days of receiving a written request for a periodic review, or locating the non-requesting party(ies), if necessary, whichever occurs later.

(6) The administrator is responsible for conducting a periodic review in this state or for requesting that another state conduct a review pursuant to OAR 137-055-7190. As provided in ORS 110.429 and 110.432, the law of the state reviewing the order applies in determining if a basis for modification exists.

(7) Upon receipt of a written request for a periodic review, the administrator will notify the non-requesting party(ies) of the review in writing and provide a copy of the notice to the requesting party. The notice must advise the parties:

(a) Of the opportunity to provide information, with regard to themselves and the other party(ies) if known, which might affect the administrator's calculation of the presumed correct support amount under the child support guidelines, and that each party has 30 days from the date of the notice to provide such information in writing to the administrator;

(b) That the administrator will consider written information received from any party prior to calculating the presumed correct amount of support;

(c) That the administrator will not conduct a review or calculate a presumed correct child support amount until 30 days has passed since the date of the notice unless documentation or written information is received from the parties before the 30 days have passed; and

(d) That a modification to the support amount will affect only support owing on or after the date of service on the last non-requesting party.

(8) The administrator will notify the parties in writing of the presumed correct support amount under the child support guidelines. This notification:

(a) May be by service of a proposed determination that the existing order is in substantial compliance with the guidelines, or

(b) May be by service of a motion or petition to modify the current support order, pursuant to applicable statutes and administrative rules;

(c) Must advise the parties that each party has 30 days from the date of service of the notice to object to the determination or proposed modification in writing if they so choose, and that the order will not be final until at least the 30 day period has passed;

(d) Must include the request for hearing form for each of the parties if the administrator uses an administrative determination or motion form; and

(e) Must be sent to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108.

(9) If the administrator determines that the support order should be modified and there

is an adult child on the case, the proposed modification will be a tiered order as defined in OAR 137-055-1020.

(10) If a party wishes to object to the proposed determination or modification, the party must file a written request for hearing with the administrator or court before the 30 day period has passed.

(11) Upon receipt of a written request for hearing opposing the proposed determination or modification, the administrator will:

(a) Review the case to determine whether the support should be recalculated and, if so, notify the parties of the new presumed amount;

(b) Seek a consent order; or

(c) Ensure that the matter is set for hearing if no other resolution is achieved; and

(d) Send a copy of the proposed determination and hearing request to an adult child who has requested notification of any modification proceeding pursuant to ORS 107.108

(12) If no request for hearing is filed within the 30 day period, the administrator will submit the determination or modification of the support order to the circuit court for entry in the court register.

(13) If a hearing is held on a determination and the administrative law judge makes a finding that the order is not in substantial compliance with the guidelines, the administrative law judge must enter a modified order with the support amount that complies with the guidelines.

(14) An appeal under this rule will be as provided in ORS 25.287.

(15) No provision of this rule precludes the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order pursuant to all applicable laws.

Stat. Auth.: ORS 180.345; 416.455

Stats. Implemented: ORS 25.080, 25.287, 107.135 , and 416.425

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