

## **137-055-4540**

### **Restriction of Passports**

(1) When the Division of Child Support submits delinquent child support accounts for IRS tax refund offset pursuant to OAR 137-055-4340, the federal Department of Health and Human Services (DHHS) will select cases in which the delinquency is \$2,500 or more for passport restriction.

(2) Passport restriction means the United States Secretary of State will refuse to issue a passport or may revoke, restrict or limit a passport which was previously issued.

(3) The parties will receive notice of passport restriction with the notice of tax refund offset specified in OAR 137-055-4340. The notice will advise the parties of the right to an administrative review regarding this action:

(a) A party may request an administrative review as specified in the notice;

(b) The only issues that may be considered in the review are:

(A) Whether the obligor is the person who owes the support balance as indicated by the case record; or

(B) Whether the support balance indicated by the official case record is correct.

(4) Upon receipt of the request for review, the administrator will schedule the review and notify the parties of the date, time and place of the review. The decision made in the review and the basis for this decision will be recorded in writing and mailed to the parties.

(5) Passport restriction may continue when the delinquency is reduced to less than \$2,500.

(6) Where a passport has been restricted and the obligor has either paid the delinquency in full or entered into and shown compliance with an agreement pursuant to this rule, the CSP will give notice to the State Department to release the passport restriction. Notice will be by the process specified by DHHS.

(7) An agreement is either payments made by income withholding, an agreement pursuant to section (8), or an agreement for a hardship exception pursuant to section (10) of this rule.

(8) Any agreement under this section must:

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

(b) Specify the due date for payments. The administrator may negotiate a due date

other than the due date on the case record;

(c) 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 the amount of the payment. When feasible, there must be a lump sum payment to pay the delinquency in full or an initial lump sum payment to significantly reduce the delinquency. The amount of any ongoing payments must be the amount that could be obtained from an income withholding order pursuant to ORS 25.414;

(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)(d) 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 State Department to restrict the passport;

(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;

(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.

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

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

(10) When ongoing monthly support is owed, under the following circumstances, an exception to the requirements in subsection (8)(d) of this rule may be made if the obligor claims a hardship. If an obligor claims a hardship and all of the conditions are met for this exception, the enforcement entity will make an exception and limit the maximum

amount of the agreement to 100 percent of the current support amount for the case. If the obligor has multiple child support cases, the administrator may limit the amount of the agreement to the lesser of 100% of the current support amount or the case's pro rata share of 50 percent of disposable earnings based on amounts of monthly support obligations per case. The conditions and time frames for exceptions are:

(a) The obligor requests a periodic review and modification or a substantial change in circumstance modification under the provisions of OAR 137-055-3420 or requests such a review and modification and is referred to the appropriate enforcement entity office to make the request. This exception will terminate after the administrator finishes the review and modification process. If the exception is granted pending the obligor's request for a periodic or substantial change in circumstances review and modification and the obligor has not made such a request to the appropriate administrator within ten days, the exception may be terminated. If the obligor must ask another state for a review and modification, the obligor must furnish verification to the administrator within 30 days that such a request was made to the other state. If such verification is not provided, this exception may be terminated.

(b) If the obligor requests a periodic review and modification or a substantial change in circumstance modification and is found to not qualify for a modification the hardship exception will terminate after a three-month period. A hardship exception under this rule may be granted for temporary conditions that limit an obligor's ability to make support payments.

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

Stat. Auth.: ORS 25.625 and 180.345

Stats. Implemented: ORS 25.625

Effective Date: October 2, 2006