

137-055-6260

Return of Overcollected Support Amounts

(1) When the Division of Child Support (DCS) receives a support payment on an account for which no current order exists for ongoing support, DCS will apply the payment to any arrears the obligor may owe on the account. If any excess funds remain from the payment after any arrears are paid in full, and DCS has not forwarded the excess amount to the payee, DCS will return the excess amount to the obligor within 30 days of discovering the overcollection.

(2) On any account for which an ongoing support obligation exists, and DCS receives a payment that exceeds the total amount due for current support and arrears and has not forwarded the excess amount to the payee, DCS will return the excess amount to the obligor under the following circumstances:

(a) When an income withholding order exists and the withholder does not receive or implement a notice from the administrator to reduce withholding to the amount of the current ongoing support obligation in a timely manner, such as may occur after all arrears are collected or after the ongoing support obligation is modified downward;

(b) When a state or federal tax refund is intercepted in an amount exceeding the amount owed for arrears; or

(c) When TANF cash assistance is being granted to the obligee or children on the support case, unless the obligor and the administrator agree otherwise.

(3) Notwithstanding section (1), on any account for which no current order exists for ongoing support, when a withholder sends a payment that exceeds the total amount that should have been withheld under ORS 25.414(1)(d), there is no order for expanded withholding under ORS 25.387, and DCS has not forwarded the excess amount to the obligee, DCS will return the excess amount to the obligor.

(4) When DCS receives a payment that exceeds the total amount due for current support and arrears and has forwarded the excess amount to the payee, DCS will notify the parties in writing within 30 days of discovering the overcollection that:

(a) A credit balance in the obligor's favor has resulted from the overcollection; and

(b) The obligee or child attending school under ORS 107.108 and OAR 137-055-5110 may, within 14 days of the date of the notice from DCS, submit a written request to DCS for an administrative review to determine if DCS's record-keeping and accounting related to calculation of the credit balance is correct.

(5) DCS will conduct the administrative review within 30 days of receiving the party's written request, and will send written notification to the parties of the results of the review.

(6) In any case where DCS is required to return overcollected funds to an obligor under section (2) of this rule, the obligor may elect to forego the return of some or all of the overcollected funds and to instead use any credit balance amount thus established under this rule to offset the obligor's future ongoing support obligation, genetic test fees or arrears. An obligor wishing to elect this option must notify DCS before DCS has returned such funds to the obligor.

Stat. Auth.: ORS 25.020, 25.125, 180.345

Stats. Implemented: ORS 25.020 and 25.125

Effective Date: January 4, 2010