

137-050-0715

Income

(1) "Income" means the actual or potential gross income of a parent, as determined in this rule.

(2) "Actual income" means all earnings and income from any source, except as provided in section (4). Actual income includes but is not limited to:

(a) Employment-related income including salaries, wages, commissions, advances, bonuses, dividends, severance pay, pensions, and honoraria;

(b) Return on capital, such as interest, trust income and annuities;

(c) Income replacement benefit payments including Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits;

(d) Gifts and prizes, including lottery winnings;

(e) Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, minus costs of good sold, minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the fact finder to be inappropriate or excessive for determining gross income; and

(f) Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business are income to the extent they reduce personal living expenses.

(3) To determine average monthly income when wages are paid weekly, multiply the weekly earnings by 52 and divide by 12. To determine average monthly income when wages are paid every two weeks, multiply the bi-weekly income earnings by 26 and divide by 12.

(4) Child support, adoption assistance, guardianship assistance, and foster care subsidies are not considered income for purposes of this calculation.

(5) "Potential income" means the greater of:

(a) The parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community; or

(b) The amount of income a parent could earn working full-time at the current state

minimum wage.

(6) Income is presumed to be the amount determined as potential income in the following scenarios:

- (a) An unemployed parent;
- (b) A parent employed on less than a full-time basis;
- (c) A parent with income less than Oregon minimum wage for full-time employment; or
- (d) A parent with no direct evidence of any income.

(7) Income is presumed to be the parent's actual income in the following scenarios.

- (a) A parent working full-time at or above the state minimum wage;
- (b) A parent unable to work full-time due to a verified disability;
- (c) A parent receiving workers' compensation benefits;
- (d) An incarcerated obligor as defined in OAR 137-055-3300; or

(e) When performing a calculation for a temporary modification pursuant to ORS 416.425(13), except as provided in section (9) of this rule.

(8) The presumptions in sections (6) and (7) of this rule may be rebutted by a finding that the presumption is inappropriate in light of the parent's probable full-time earnings level based on employment potential, relevant work history, and occupational qualifications in light of prevailing job opportunities and earnings levels in the community.

(9) Notwithstanding any other provision of this rule, if the parent is a recipient of Temporary Assistance for Needy Families, the parent's income is presumed to be the amount which could be earned by full-time work at the current state minimum wage. This income presumption is solely for the purposes of the support calculation and not to overcome the rebuttable presumption of inability to pay in ORS 25.245.

(10) As used in this rule, "full-time" means 40 hours of work in a week except in those industries, trades or professions in which most employers, due to custom, practice or agreement, utilize a normal work week of more or less than 40 hours in a week.

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