

137-055-2360**Obligor Chapter 7 and Chapter 11 Bankruptcy Situations**

This rule details the Child Support Program's responsibilities in situations of obligor bankruptcy and applies to Chapter 7 and Chapter 11 bankruptcies filed on or after October 17, 2005. For bankruptcies filed prior to October 17, 2005, the Bankruptcy Code in effect at the time the bankruptcy was filed applies, as does the prior version of OAR 137-055-2360 in effect at the time the bankruptcy was filed.

(1) Upon receiving notification of bankruptcy, the administrator will:

(a) Stop any legal action that is pending and not initiate any new legal action, except:

(A) Initiating or proceeding with the establishment of paternity;

(B) Initiating or proceeding with the establishment or modification of a child support order;

(C) Changing the support award based on a change in the child's physical custody as authorized by ORS 25.525; or

(D) Processing a notice suspending or reinstating support pursuant to OAR 137-055-3300 or 137-055-5400.

(b) Not file any document in circuit court in a county in which the debtor owns real property which creates a lien by its terms or by operation of law without first obtaining relief from the automatic stay.

(c) Leave any existing income, unemployment, workers' compensation, or Paid Leave Oregon withholding orders in place, if the order is not in violation of the stay. In a Chapter 7 bankruptcy, withholding may continue against post-petition earnings for both current support and for both pre-petition and post-petition arrears. In a Chapter 11 bankruptcy, collections may continue for current support and post-petition arrears, unless otherwise provided in the debtor's plan. If no withholding order is in place, the administrator will obtain a withholding order, as appropriate, upon receipt of obligor's employment information.

(d) Determine if there are any other enforcement actions in process which may need to be stopped due to the stay or which may involve property of the bankruptcy estate, such as a writ of garnishment or contempt of court action; and

(e) Terminate any action that involves property of the bankruptcy estate and is not excepted from the automatic stay and send any such property of the estate that has not been distributed to the bankruptcy trustee.

(2) The administrator will not file a Proof of Claim if no assets are involved in a Chapter 7 bankruptcy.

(3) If there are assets available for distribution to creditors in a Chapter 7 bankruptcy, the administrator will file a Proof of Claim, if applicable, even if the time period for filing a Proof of Claim has passed.

(4) In a Chapter 11 bankruptcy, the administrator will file a Proof of Claim for current support and arrears owed at the time the petition was filed, if any.

(5) The administrator will respond to any objections filed to the Proof of Claim.

(6) If the automatic stay prevents a support enforcement action that is otherwise appropriate under applicable bankruptcy and nonbankruptcy law, unless there is evidence that the bankruptcy will close or the Plan will be confirmed before the relief from stay can be granted, the administrator will petition the bankruptcy court for a Relief from Stay.

(7) If in a Chapter 11 bankruptcy, the debtor proposes a bankruptcy Plan that does not provide for the payment of current or past child support, the administrator may request the bankruptcy court reject the Plan.

(8) The administrator will continue to certify a case for federal and state tax refund intercept unless otherwise provided by the bankruptcy Plan. However, if it is determined that an intercepted tax refund is the property of the estate and the bankruptcy trustee requests the money, the administrator will forward the money to the bankruptcy trustee and notify the parties.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.080

Effective Date: March 1, 2024