

137-055-3220

Establishment of Past Support Orders

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

(a) "Past support" means the amount of child support that could have been ordered based on the Oregon Child Support Guidelines and accumulated as arrears against a parent for the benefit of a child for any period of time during which the child was not supported by the parent and for which period no support order was in effect.

(b) "Supported by the parent" in subsection (1)(a) of this rule means payments in cash or in kind in amounts or in-kind value equal to the amount that would have accrued under the Oregon Child Support Guidelines from the obligor to the obligee for purposes of support of the child.

(c) "The Oregon Child Support Guidelines" means the formula for calculating child support specified in ORS 25.275.

(2) The administrator may establish past support when establishing a child support order under ORS 25.501 to 25.556.

(3) When an obligor has made payments in cash or in kind to an obligee for the support of the child during the period for which a judgment for past support is sought, and providing that those payments were in amounts equal to or exceeding the amount of support that would have been presumed correct under the Oregon Child Support Guidelines, no past support will be ordered.

(4) When such payments as described in section (3) of this rule were made in amounts less than the amount of support presumed correct under the Oregon Child Support Guidelines, the amount of the past support judgment will be the correct amount presumed under the Oregon Child Support Guidelines minus any amounts of support paid.

(5) The obligor must provide evidence of such payments as described in sections (3) and (4) of this rule by furnishing copies of:

(a) Canceled checks;

(b) Cash or money order receipts;

(c) Any other type of funds transfer records;

(d) Merchandise receipts;

(e) Verification of payments from the obligee;

(f) Any other record of payment deemed acceptable by the administrator.

(6) The administrator may decide whether to accept evidence of such cash or in-kind support payments for purposes of giving credit for them. If any party disagrees, the past support calculation may be referred to an administrative law judge as provided in ORS 25.513.

(7)(a) Past support may not be ordered for any period of time prior to the first day of the month the Notice and Finding of Financial Responsibility and proposed Order Establishing Support are issued. For any month or part of a month for which past support is ordered, the amount of support shall be a full month increment and shall not be prorated; and

(b) If prior to finalizing the proposed Order Establishing Support, it is determined that it is no longer appropriate to include ongoing support, the proposed order may be amended to include past support only, provided that at least four months have elapsed since the first day of the month in which the original proposed order was issued.

(8) If the parties are filing for annulment, dissolution, or separation under ORS 107.105 and a judgment will be entered for months when the proceeding was pending, any order for past support may only include amounts owed for a time period not already addressed in the judicial action.

(9) Past support will be calculated under the Oregon Child Support Guidelines based on current guideline factors. If the resulting amount is unjust or inappropriate, it may be rebutted as provided in OAR 137-050-0760.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.515

Effective: December 2, 2022