

137-055-4060

Income Withholding – General Provisions, Requirements and Definitions

(1) OARs 137-055-4060 to 137-055-4080 provide for collection of support by means of income withholding, in accordance with ORS 25.372 to ORS 25.427 and all other applicable Oregon law, on all support cases being enforced by the administrator.

(2) For purposes of OARs 137-055-4060 to 137-055-4080 and as used in ORS 25.372 to ORS 25.427, the following definitions apply:

(a) "Alternative payment method" means the methods of paying support described in OAR 137-055-4080;

(b) "Best interests of the child" means the method of payment likely to produce consistent support that will reach the child(ren) in the most expedited manner.

(c) "Disposable income" means the part of an individual's income that remains after the deduction of any amounts required to be withheld by law, except as provided in paragraphs (B) or (C) of this subsection.

(A) Amounts required to be withheld by law include, but are not limited to, required withholding for taxes and Social Security;

(B) Any amounts withheld for the following will not be deducted from the obligor's income when computing disposable income, even if such withholding is required by law or by judicial or administrative order:

(i) Health insurance premiums;

(ii) Spousal or child support.

(C) An obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income withheld. The obligor has the burden of proving such claims and must therefore furnish verifiable business records or documents to support any offsets claimed. The obligor also has the burden of furnishing such records or documents in a timely manner, and the Oregon Child Support Program will not refund to the obligor, on the basis of such claims, any amounts withheld that the administrator has already disbursed to the obligee or to any child attending school under ORS 107.108 and OAR 137-055-5110;

(d) "Electronic Funds Transfer" (EFT) has the definition given in OAR 137-055-5035 and includes but is not limited to payment by Electronic Payment Withdrawal (EPW) and by debit or credit system or card.

(e) "Electronic Payment Withdrawal" (EPW) means an automatic withdrawal of support from the person's bank account.

(f) "Good cause" for not withholding means a situation that exists when:

(A) A court or the administrator makes a written determination that, and a written explanation in the official record of why, immediate income withholding would not be in the best interests of the child; and

(B) If the case involves the modification of an existing support order, there is proof of timely payment of previously ordered support and there are no arrears. Timely payment is indicated when the obligor has not previously become subject to initiated income withholding under the existing order.

(g) "Paid Leave Oregon" means family, medical, and safe leave insurance benefits as provided in ORS chapter 657B. For the purposes of child support income withholding orders, the following apply:

(A) Support will be withheld pursuant to ORS 25.414;

(B) Support will be withheld only from family and medical paid leave benefits.

(h) Periodic recurring income as used in calculating withholding from a lump sum payment or benefit pursuant to ORS 25.414(4), means income that is intended as a monthly or more frequent payment that includes, but is not limited to, a teachers lump sum payment for summer months.

(3) All support orders issued or modified by the administrator will include a provision requiring the parties to keep the administrator informed of:

(a) The name and address of the party's current employer;

(b) Whether or not the party has access to appropriate health care coverage, and if so, the health care coverage policy information.

(4) For purposes of support enforcement, any support payment that becomes due and payable on a day other than the first day of the month in which the payment is due shall be enforceable by income withholding as of the first day of that month.

(5) Notwithstanding any other provision of this rule, if the administrator determines that Supplemental Security Income (SSI) or a combination of SSI and either Social Security Disability Insurance (SSDI) or Social Security Retirement (SSR) benefits has been incorrectly withheld from the obligor through an income withholding order, and the administrator is in possession of the funds, the administrator must return the funds to the obligor.

Stat. Auth.: ORS 25.396; 180.345

Stats. Implemented: ORS 25.166, 25.372, 25.427, 656.234, 657.780, 657.855 and ORS chapter 657B

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