

137-055-5400

Obligor Receiving Cash Assistance, Presumed Unable to Pay Child Support

(1) Cases for obligors receiving cash assistance as specified in ORS 25.245 from Oregon will be identified and processed as set forth in ORS 25.245. Obligor receiving cash assistance as specified in ORS 25.245 from another state or tribe must provide to the administrator written proof of receipt of such cash assistance. The written proof must:

(a) Be provided by the obligor to the administrator to initiate suspension and every three months thereafter;

(b) Include the date the cash assistance payment was first made, the amount of the cash assistance for each and every month in which cash assistance was received, and the ending date, if known, of the cash assistance;

(c) Be official documentation, recognized by the issuing agency, that covers each and every month that cash assistance was received, including but not limited to a benefits award letter, deposit record or receipt.

(2)(a) When an obligor has provided written proof of receipt of cash assistance pursuant to section (1) of this rule, the administrator will, subject to section (3) of this rule, credit the case for arrears accrued from the date the obligor submitted written proof of receipt of cash assistance back to the date the cash assistance was first made, but not earlier than October 6, 2001;

(b) When an obligor notifies the administrator that the obligor is no longer receiving cash assistance, the administrator will begin accrual and billing pursuant to the support order currently in effect with the next support payment due following the end of the last month that the obligor received public assistance;

(c) If the obligor fails to provide written proof of receipt of cash assistance pursuant to section (1) of this rule, the administrator will begin accrual and billing pursuant to the support order currently in effect with the next support payment due for the month following the month for which the obligor last provided written proof;

(d) If the obligor provides written proof of receipt of cash assistance pursuant to section (1) of this rule after failing to provide timely written proof of receipt of cash assistance within three months, thereby causing the administrator to begin billing and accrual pursuant to subsection (c) of this section, support accrual may be suspended and arrears may be credited pursuant to subsection (a) of this section.

(3)(a) Upon receipt of information that the obligor is receiving or has received cash assistance as specified in ORS 25.245(1), the administrator will send a notice to all parties to the support order. The notice will contain a statement of the presumption that support accrual ceases and include the following:

(A) A statement of the month in which cash assistance was first made, and the ending date, if known;

(B) A statement that, unless the party objects, child support payments cease accruing beginning with the support payment due on or after the date the obligor began receiving cash assistance, but not earlier than:

(i) January 1, 1994, if the obligor received Oregon Title IV-A cash assistance, Oregon general cash assistance, Oregon Supplemental Income Program cash assistance or Supplemental Security Income Program payments by the Social Security Administration; or

(ii) October 6, 2001, if the obligor received Title IV-A cash assistance or general cash assistance from another state or Tribe;

(C) A statement that the administrator will continue providing enforcement services, including services to collect any arrears;

(D) A statement that if the obligor ceases to receive cash assistance as specified in ORS 25.245(1), accrual and billing will begin with the next support payment due following the end of the last month that the obligor receives cash assistance or for which the obligor provided written proof;

(E) A statement that any party may object to the presumption that the obligor is unable to pay support by sending to the administrator a written objection within 30 days of the date of service;

(F) A statement that the objections must include a written description of the resource or other evidence that might rebut the presumption of inability to pay; and

(G) A statement that the entity responsible for providing enforcement services represents the state and that low cost legal counsel may be available.

(b) Included with each notice under this section will be a separate form for the party to use if they choose to file an objection to the presumption that the obligor is unable to pay support.

(4) No credit will be given for periods for which the court or administrative law judge has previously declined to suspend the obligor's child support obligation in an action under ORS 25.245;

(5) No credit will be given for months when the administrator had suspended accrual or where credit was already received.

Stat. Auth.: ORS 25.245 and 180.345

Stats. Implemented: ORS 25.245
Effective Date: October 1, 2012