

137-055-5520

Request for Credit Against Child Support Arrears for Social Security or Veterans Benefits Paid Retroactively on Behalf of a Child

(1) In accordance with ORS 25.527 and 107.135, the purpose of this rule is to define the process for allowing a credit against child support arrears for Social Security or Veterans benefits paid retroactively to the child, or to a representative payee administering the funds for the child's use and benefit.

(2) A request for credit against arrears under this rule may be for:

(a) A lump sum; or

(b) Monthly amounts which, when added together, equal a lump sum.

(3) As used in this rule, Social Security benefits are as defined in OAR 137-050-0740.

(4) As used in this rule, Veterans benefits include both apportioned Veterans benefits and Survivors' and Dependents' Educational Assistance, as defined in OAR 137-050-0740.

(5) The request for credit against arrears will be considered if submitted in writing and credit has not already been given for the same payments.

(6) A request for credit against child support arrears for Social Security or Veterans benefits paid retroactively on behalf of the child may be made either:

(a) With a request for a periodic review and modification or a substantial change in circumstance modification if there is a current support obligation for that child. The modification must have an effective date on or after October 23, 1999; or

(b) Independently of a request for a modification if the order has already been modified to reflect that the obligor receives Social Security or Veterans benefits or there is no longer a current support obligation for the child.

(7) A party must provide documentation of the Social Security Administration (SSA) or Department of Veterans Affairs (DVA) retroactive payment paid on behalf of the child.

(8)(a) The credit for Survivors' and Dependents' Educational Assistance will be a dollar-for-dollar credit against the child support arrears; and

(b) The credit for Social Security and apportioned Veterans benefits may be a dollar-for-dollar credit against the child support arrears.

(9) Notwithstanding subsections (8)(a) and (b), the maximum credit allowed will be limited to the amount of the child support arrears. In no circumstances will the credit

exceed the amount of the retroactive SSA or DVA payment made on behalf of the child.

(10) The administrator will provide the parties notice indicating the amount to be credited. The notice will be sent by regular mail when provided independently of a modification or by the appropriate service method when provided as part of the modification action.

(11) Within 30 days of being served with the notice, a party may request an administrative hearing. The request must be made in writing, and the only basis upon which a party may object is that:

(a) The lump sum payment was not received;

(b) The lump sum payment amount used in the calculation is not correct; or

(c) The amount of the credit is not correct because credit has already been given for all or part of the lump sum payment.

(12) Any appeal of the decision made by an administrative law judge must be to the circuit court for a hearing de novo pursuant to ORS 25.513.

(13) If no timely written request for hearing is received, the order will be filed in circuit court.

(14) If the credit determined in subsections (8)(a) and (b) is less than the amount of arrears owed per section (9), the file credit will be applied as follows:

(a) If none of the arrears are assigned to the state, the credit will be applied to the family's unassigned arrears;

(b) If there are arrears assigned to the state and the child was receiving assistance during any time period covered by the retroactive payment per the SSA or DVA determination letter, the credit will be applied in the following sequence:

(A) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(B) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance;

(C) Family's unassigned arrears;

(D) Family's conditionally assigned arrears.

(c) If there are arrears assigned to the state and the child was not receiving assistance during any time period covered by the retroactive payment per the SSA or DVA

determination letter, the credit will be applied in the following sequence:

(A) Family's unassigned arrears;

(B) Family's conditionally assigned arrears;

(C) State's permanently assigned arrears, not to exceed the amount of unreimbursed assistance;

(D) State's temporarily assigned arrears, not to exceed the amount of unreimbursed assistance.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.020, 25.527 & 107.135

Effective: December 3, 2021