

137-050-0715

Income

(1) "Income" means the actual or potential gross income of a parent as determined in this rule. Actual and potential income may be combined when a parent has actual income and is unemployed or employed at less than the parent's potential.

(2) "Actual income" means a parent's gross earnings and income from any source, including those sources listed in section (4), except as provided in section (5).

(3) "Potential income" means the parent's ability to earn based on relevant work history, including hours typically worked by or available to the parent, occupational qualifications, education, physical and mental health, employment potential in light of prevailing job opportunities and earnings levels in the community, and any other relevant factors. A determination of potential income includes potential income from any source described in section 4 of this rule.

(4) Actual income includes but is not limited to:

(a) Employment-related income including salaries, wages, commissions, advances, bonuses, dividends, recurring overtime pay, severance pay, pensions, and honoraria;

(b) Expense reimbursements, allowances, or in-kind payments to a parent, to the extent they reduce personal living expenses;

(c) Annuities, trust income, including distribution of trust assets, and return on capital, such as interest and dividends;

(d) Income replacement benefit payments including Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, and Department of Veterans Affairs disability benefits;

(e) Inheritances, gifts and prizes, including lottery winnings; and

(f) Income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, minus costs of goods sold, minus ordinary and necessary expenses required for self-employment or business operation, including one-half of the parent's self-employment tax, if applicable. Specifically excluded from ordinary and necessary expenses are amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses, investment tax credits, or any other business expenses determined by the fact finder to be inappropriate or excessive for determining gross income.

(5) Child support, food stamps, Social Security or Veterans benefits received on behalf of a child in the household, adoption assistance, guardianship assistance, and foster care subsidies are not considered income for purposes of this calculation.

(6) If a parent's actual income is less than the parent's potential income, the court, administrator, or administrative law judge may impute potential income to the parent.

(7) If insufficient information about the parent's income history is available to make a determination of actual or potential income, the parent's income is the amount the parent could

earn working full-time at the minimum wage in the state in which the parent resides.

(8) Potential income may not be imputed to:

(a) A parent unable to work full-time due to a verified disability;

(b) A parent receiving workers' compensation benefits;

(c) An incarcerated obligor as defined in OAR 137-055-3300; or

(d) A parent whose order is being temporarily modified under ORS 416.425(13).

(9) To determine monthly income when the employee is paid:

(a) Weekly, multiply the weekly earnings by 52 and divide by 12.

(b) Every two weeks, multiply the bi-weekly earnings by 26 and divide by 12.

(c) Semimonthly (twice per month), multiply the semimonthly earnings by 2.

(10) Notwithstanding any other provision of this rule, if the parent receives Temporary Assistance for Needy Families, the parent's income is presumed to be the amount which could be earned by full-time work at the minimum wage in the state in which the parent resides. This income presumption is solely for the purposes of the support calculation and not to overcome the rebuttable presumption of inability to pay in ORS 25.245.

(11) As used in this rule, "full-time" means 40 hours of work in a week except in those industries, trades or professions in which most employers, due to custom, practice or agreement, utilize a normal work week of more or less than 40 hours in a week.

Stat. Auth.: ORS 25.270 – 25.290, 180.345

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