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## PERMANENT ADMINISTRATIVE ORDER

**DOJ 19-2018**  
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DEPARTMENT OF JUSTICE

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### RULES:

137-055-1010, 137-055-2020, 137-055-4420, 137-055-6010, 137-055-6020, 137-055-6021, 137-055-6023, 137-055-6210, 137-055-6220, 137-055-6260

ADOPT: 137-055-1010

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: OAR 137-055-1010 is adopted to provide clarification regarding the application of Program rules 137-055-1020 through 137-055-7190 during the transition from the Child Support Enforcement Automated System (CSEAS) to the Origin child support automated system.

CHANGES TO RULE:

### 137-055-1010

Applicability of Rules in OAR 137, Division 55

OAR 137-055-1020 to 137-055-7190 apply to cases being managed in both the Child Support Enforcement Automated System (CSEAS) and the Origin automated child support system, unless a specific rule or rule provision indicates that it is intended to apply only to a specific system.

Statutory/Other Authority: ORS 180.345

Statutes/Other Implemented: ORS 180.345

RULE SUMMARY: OAR 137-055-2020 is amended to address the change in case assignment in the Origin child support automated system.

CHANGES TO RULE:

137-055-2020

Case Assignment ¶

(1)(a) Except as provided in OAR 137-055-1090, the Division of Child Support (DCS) must provide services pursuant to ORS 25.080 for all children for whom support rights are or have been assigned to theis or another state because the child(ren) are receiving or have received cash assistance, services from the Oregon Youth Authority, foster care, or medical assistance when one or both parents are absent from the benefit group; and ¶  
(b) For cases that would be assigned to a District Attorney (DA) office, but DCS is providing child support services as provided in ORS 25.080(6). ¶

(2) Notwithstanding section (1) of this rule, if a District Attorney (DA)A is providing services pursuant to ORS 25.080(1)(b) on a case where the family, or a family member, assigns medical child support rights, the DA will continue to provide services on that case. ¶

(3)(a) Once a case is assigned to a DCS office, barring error, it will remain assigned to a DCS office, even if no support remains assigned to the state; and ¶

(b) The provisions of subsection (3)(a) do not apply if the DCS office to which the case is assigned is a DCS office providing services in lieu of a DA office and the case would have been assigned to a DA office under this rule. ¶

(4) Notwithstanding the provisions of section (3), a DCS office and DA office may agree to transfer a case or may co-work a case or conclude pending legal proceedings. Before a case may be transferred from one office to another, approval must be obtained from each office manager or management equivalent and narrated on the computer record for the case. ¶

(5) The matrix set out in Exhibit 1 is offered as an aid in applying sections (1) through (4) of this rule. [Exhibit not included. ~~See ED. NOTE.~~] ¶

(6) Sections (7) to (14) apply only to cases assigned to DA offices or to counties in which DCS offices provide DA services pursuant to ORS 25.080(1)(b). ¶

(7)(a) Except as provided in subsection (b) of this section, the DA of the applicantobligee's county will be assigned the case and must provide services; ¶

(b) If the obligor resides in the same county where the operative support order is entered, the DA of the order county will be assigned the case and must provide the services. ¶

(8)(a) ~~Except as provided in subsection (b) of this section, when continued services as required in OAR 137-055-1100 must be provided, the DA of the county in which the person receiving services resides will be assigned the case and must provide services; ¶~~

(b) If the obligor resides in the same county where the operative support order is entered When one party resides in another state, the DA of the order county must provide the services. ¶

(9) When the person applying for or receiving services resides in another state, the DA where the obligor resides of the Oregon resident must provide services, even if there is a support order in another county. ¶

(10) When both the person applying for services and the obligor parties reside in another state: ¶

(a) If there is an Oregon order, the DA of the order county must provide the services; ¶

(b) If there is no Oregon order, the DA of the county where the child resides or where the obligor's income or property is located must provide the services; ¶

(c) If there is no Oregon order and the obligor has no income or property located in the state, but it is anticipated that the obligee will be moving to this state, the DA of the county where the obligee is anticipated to reside must provide the services; ¶

(d) If there is no Oregon order, the obligor has no income or property located in the state, the obligee is not anticipated to be moving to this state, but continuation of services is being provided pursuant to OAR 137-055-1100, the DA where the case was previously assigned must provide the services.¶

(140) The matrix set out in Exhibit 2 is offered as an aid in applying sections (7) through (102) of this rule. [Exhibit not included. See ~~ED~~ NOTE.]¶

[~~ED~~ NOTE: Exhibits referenced are available from the agency.]

Statutory/Other Authority: ORS 25.080, 180.345

Statutes/Other Implemented: ORS 25.080

RULE SUMMARY: OAR 137-055-4420 is amended to clarify the criteria for initiating license suspension. Removes notification to the obligee or other parties that the case qualifies for license suspension; Limits the release of social security numbers and dates of birth to final four digits and year of birth only; Clarifies that actual income, but no less than the lowest Oregon minimum wage, will be used to determine the monthly payment amount when entering into a payment agreement.

CHANGES TO RULE:

137-055-4420

License Suspension for Child Support ¶

(1) For the purposes of this rule, "license" means any of the licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driver licenses and permits issued by the Department of Transportation under ORS Chapter 807, and all permanent and fee-based annual hunting and fishing licenses issued by the Oregon Department of Fish and Wildlife.¶

(2) The administrator may begin the process to suspend an obligor's licenses if:¶

(a) The obligor has an order or judgment to pay child support, regardless of whether that order or judgment is currently accruing support;¶

(b) The administrator ~~is~~has been providing services on the case pursuant to ORS 25.080; for at least three months; ¶

(c) The obligor owes arrears in an amount equal to the greater of three months of support or \$2500; ¶

(d) The obligor and administrator have not entered into an agreement as described in section (10), or there is an agreement but the obligor is not in compliance with the agreement; and ¶

(e) The obligor has not made voluntary payments, or payments by income withholding, ~~in each of every month for~~ the last three months greater than the current support amount, or if there is no longer an order or judgment for current support, equal to the amount of the most recent order for current support. This criterion does not apply to payments resulting from garnishment, tax offset, or any other enforcement action other than income withholding; ¶

(3) The administrator will consider the obligor's employment and payment history, the obligor's current ability to pay, the likely benefit to the child, and any other pertinent factor in determining whether to initiate or continue the license suspension process. ¶

(4) The administrator will begin the license suspension process by giving written notice to the obligor by regular mail. ~~The administrator will notify any other parties that the action has begun.~~ If the issuing agency or agencies have addresses listed for the obligor other than the address in the administrator's records, the administrator will send copies of the notice to the address in the administrator's records and to each address in the records of the agencies holding licenses. The notice to the obligor will specify: ¶

(a) The obligor's name, final four digits of Social Security number, if available, and ~~date~~year of birth, if known; ¶

(b) The license(s) subject to suspension; and a statement that any license not specified in the notice will also be subject to suspension without a separate notice; ¶

(c) The obligor's child support case number(s); ¶

(d) The basis for the suspension, including amount of the arrears and the amount of the monthly support obligation(s), if any; ¶

(e) The procedure and grounds for contesting the suspension; ¶

(f) A statement that the obligor can prevent suspension of the license(s) by entering into and complying with an agreement with the administrator; and ¶

(g) A statement that unless the obligor contacts the administrator within 30 days of the date of the notice and

contests the license suspension or enters into an agreement, the administrator may notify the issuing agency or agencies to suspend the license(s) without further notice.¶

(5) The obligor may contest the suspension within 30 days of the notice described in section (4) of this rule only on the grounds that:¶

(a) The obligor owes arrears less than or equal to the greater of three months of support or \$2,500; or¶

(b) There is a mistake in the obligor's identity.¶

(6) Any of the following events ends the license suspension process. The administrator will stop all license suspension actions and notify the issuing agency to release any license already suspended, subject to that agency's requirements, if, on timely receipt of a contest from the obligor under section (5), on the obligor's subsequent request for a review of the case, or at any time upon review of the case, the administrator determines that:¶

(a) The administrator is no longer providing services under ORS 25.080;¶

(b) The obligor owes arrears less than or equal to the greater of three months of support or \$2,500;¶

(c) The individual whose license(s) are to be suspended is not the obligor who owes the support arrears that are the basis for the suspension;¶

(7) If the obligor contests license suspension under section (5), the administrator will make a determination based on the criteria in section (6) and notify the parties in writing of the determination. If the administrator determines that the suspension process will continue, the obligor may object within 30 days of the date of the administrator's determination by requesting an administrative hearing. Upon receipt of the hearing request, the administrator will take no further action to suspend pending receipt of the hearing order.¶

(8) Not less than ~~thirty~~30 days after issuing the notice that the obligor's license is subject to suspension, as described in section (4), the administrator will review the case. If the case continues to qualify for suspension, and no contest has been received from the obligor, the administrator may notify the issuing agency to suspend the obligor's license(s).¶

(9) If an obligor holds more than one license, any determination regarding suspension of one license is sufficient to suspend any other license.¶

(10) The administrator may enter into an agreement with the obligor, the obligor's compliance with which will preclude suspension of the obligor's license.¶

(a) The standard monthly payment amount for a compliance agreement is the amount that could be obtained through income withholding under ORS 25.414. In determining this amount, the obligor's actual earnings will be used, but no less than the equivalent of full-time work at the lowest Oregon minimum wage. An agreement under this subsection may be for any period of time agreed to by the administrator and obligor.¶

(b) If the obligor demonstrates inability to pay the full amount described in subsection (10)(a), the administrator may agree to a temporary hardship exception for a lesser amount, including, where appropriate, no amount. The administrator may condition the hardship exception on receipt of a modification request from the obligor, including any evidence needed to substantiate the request. A hardship exception may also require that the obligor take specific steps to enhance the obligor's ability to pay, such as job search, job training or substance abuse treatment. A hardship exception under this subsection may be for no longer than six months. At the end of the hardship period, the agreement must automatically change to a standard payment amount under subsection (10)(a). However, at the end of the hardship period, the administrator may agree to a subsequent hardship exception under this subsection if the administrator determines such an exception remains appropriate.¶

(11) Any agreement entered into under section (10) must include:¶

(a) The amount and due date of the payment. The due date in the payment agreement is solely for the purposes of the license suspension process and does not affect the monthly due date in the support order;¶

(b) If the agreement is based on a hardship exception under subsection (10)(b), a standard payment amount determined under subsection (10)(a) that will automatically go into effect at the end of the specified hardship exception period;¶

(c) The duration of the agreement, including the duration of the subsequent payment agreement if the initial agreement is based on a hardship exception under subsection (10)(b) of this rule;¶

(d) A statement that payments may be made through income withholding;¶

- (e) A statement that failure to comply with the agreement may result in immediate notification to the issuing agency to suspend the license(s) without further notice to the obligor;¶
  - (f) A statement that the agreement may be terminated if the support order or judgment is modified;¶
  - (g) A statement that the administrator may terminate the agreement and suspend the license at any time if the obligor fails to comply with the agreement, if the obligor's income changes, or if the obligor has under-reported income;¶
  - (h) A statement that the obligor's compliance with the agreement does not preclude any enforcement action by the administrator other than license suspension, and that other collection actions will continue to occur;¶
  - (i) A statement that the obligor is required to inform the administrator within 10 days of any change in employment;¶
  - (j) A statement that information provided by the obligor may be used for other enforcement actions, including contempt actions; and¶
  - (k) The signatures of the obligor and the administrator.¶
- (12) When the administrator enters into an agreement with the obligor, the administrator will send courtesy copies of the agreement to the parties on the case.¶
- (13) If the obligor complies with the agreement, the administrator will not notify the issuing agency to suspend the obligor's license(s), or, if the license has already been suspended, the administrator will notify the issuing agency to reinstate the license.¶
- (14) If the obligor fails to comply with an agreement, the administrator may notify the issuing agency to suspend the obligor's license(s). The administrator will notify the parties to the case that the action has been taken. If the obligor has complied with the agreement for at least one year and then stops complying, the administrator will send the obligor written notice 30 days prior to issuing the notice to suspend to provide the opportunity for the obligor to comply.¶
- (15) If an obligor has more than one child support case, the Child Support Program Director or designee will determine and assign a single ~~branch~~ office that will be responsible for services relating to that obligor under this rule. Any enforcement services other than license suspension will be provided by the office(s) otherwise assigned to the obligor's case(s).

Statutory/Other Authority: ORS 25.750 - to 25.785, 180.345

Statutes/Other Implemented: ORS 25.750 - to 25.783

AMEND: 137-055-6010

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: OAR 137-055-6010 is amended to add definitions for critical finance terms: allocation, distribution, and disbursement.

CHANGES TO RULE:

137-055-6010

Definitions for Distribution and Disbursement ¶¶

For purposes of OAR 137-055-6020 through 137-055-6024, the following definitions apply:¶¶

- (1) "Assistance" means cash assistance under Temporary Assistance for Needy Families (TANF) program, or foster care maintenance payments provided by the Department of Human Services (DHS), or cost of care provided by the Oregon Youth Authority (OYA).¶¶
- (2) "Current support" means the monthly support amount ordered by a court or administrative process for the benefit of a child or a former spouse.¶¶
- (3) "Electronic funds transfer (EFT)" and "Electronic data interchange (EDI)" means the movement of funds and information by nonpaper means, usually through a payment system including, but not limited to, an automated clearing house (ACH), the Federal Reserve's Fedwire system, magnetic tape, direct deposit, or stored value card. ¶¶
- (4) "Family's conditionally assigned arrears" means past-due support that accrues during non-assistance periods, and was not permanently assigned under pre-October 1997 assignments, that reverts back to the family on either October 1, 2000, if the family terminates assistance prior to October 1, 2000, or on the date the family leaves the assistance program if on or after October 1, 2000. Beginning October 1, 2009, for TANF assignments, and beginning June 1, 2018, for foster care and OYA assignments, the family's conditionally assigned arrears are no longer temporarily assigned to the state during assistance periods. They remain conditionally assigned to the family. ¶¶
- (5) "Family's unassigned arrears" means past-due support that accrues after the family's most recent period of assistance, that accrued between periods of assistance and are not conditionally assigned, or that accrued at any time in the case where a family has never received assistance. Upon case conversion from the Child Support Enforcement Automated System to the Origin child support automated system, arrears assigned as the result of an advance payment as provided by OAR 137-055-6210 will be transferred to the balance of family's unassigned arrears. ¶¶
- (6) "Family's unassigned during assistance arrears" means:¶¶
  - (a) Past-due support that accumulates while a family receives assistance and exceeds the total amount of unreimbursed assistance paid to the family; or¶¶
  - (b) Permanently assigned arrears that were deassigned to be payable to the family because DHS established an overpayment claim for assistance. Permanently assigned arrears will be deassigned as follows: ¶¶
    - (A) When the overpayment established by DHS is the full amount of assistance for that time period, permanently assigned arrears will be deassigned by the amount that accrued as arrears during the time period of the overpayment;¶¶
    - (B) Unless paragraph (6)(b)(C) of this rule applies, when the overpayment established by DHS is less than the full amount of assistance for that time period, permanently assigned arrears will be deassigned by the amount by which the permanently assigned arrears balance exceeds the unreimbursed assistance as adjusted for the overpayment; or¶¶
    - (C) When the overpayment established by DHS is less than the full amount of assistance for that time period and the obligee or DHS has provided documentation establishing that some but not all months in the time period were overpaid in full, permanently assigned arrears will be deassigned by the amount that accrued as arrears during any month for which the overpayment established by DHS includes the entire grant amount, without regard to the unreimbursed assistance balance. If the resulting permanently assigned arrears balance exceeds the

unreimbursed assistance as adjusted for the overpayment, the permanently assigned arrears will be further deassigned by the amount by which the resulting permanently assigned arrears exceeds the unreimbursed assistance as adjusted for the overpayment. ¶¶

(7) "Deassigned" means the process of reassigning arrears that are owed to the state so that they are owed to the family as unassigned arrears. ¶¶

(8) "Future support" means an amount received that represents payment on current support or arrears for future months. ¶¶

(9) "Pass-through" means an amount collected and applied to current child support that is assigned for TANF but is disbursed to the obligee before any remaining amount of current support is retained by the state. ¶¶

(10) "State's permanently assigned arrears" means: ¶¶

(a) Past-due support that accrues during the period the family receives assistance and past-due support that accrued before the family applied for assistance in pre-October 1997 assignments only; or ¶¶

(b) Advance payments owed to the State of Oregon under OAR 137-055-6210. ¶¶

(11) "State's temporarily assigned arrears" means past-due support assigned to the state during assistance periods, but that accrued during non-assistance periods, and was not permanently assigned under pre-October 1997 assignments. ¶¶

(a) Beginning October 1, 2009, for TANF assignments, and beginning June 1, 2018, for foster care and OYA assignments, state's temporarily assigned arrears permanently revert to family's conditionally assigned arrears when the family is no longer receiving assistance, and unassigned family arrears that accrue during non-assistance periods will no longer be temporarily assigned to the state during assistance periods. ¶¶

(b) Upon case conversion from the Child Support Enforcement Automated System to the Origin child support automated system, any balance of state's temporarily assigned arrears will be transferred to the balance of family's conditionally assigned arrears. ¶¶

(12) "Unreimbursed assistance" means the cumulative amount of assistance paid to a family or on behalf of a child(ren) for all months that has not been recovered by assigned support collections. The total amount of unreimbursed assistance that may be recovered is limited by the total amount of the assigned support obligation. ¶¶

(13) "Allocation" means the process of determining how a collection received from or on behalf of a parent will be applied to one or more cases for which that parent owes support. ¶¶

(14) "Distribution" means the process of applying a collection allocated to a case to the support obligations in that case. ¶¶

(15) "Disbursement" means the process of sending funds from a collection to the person or entity entitled to receive them.

Statutory/Other Authority: ORS 180.345, ORS 25.020, 25.165

Statutes/Other Implemented: ORS 25.020, 412.024, 418.032



AMEND: 137-055-6020

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: OAR 137-055-6020 is amended to remove the provision directing the Oregon Child Support Program to disburse support payments to private collection agencies, rather than to the obligee to whom the support is due. This implements amendments to ORS 25.020 from SB 765 (2017).

CHANGES TO RULE:

137-055-6020

Disbursement by Electronic Funds Transfer/Electronic Data Interchange ¶

(1) In addition to the definitions found in OAR 137-055-5110 and OAR 137-055-6010, the following terms have the meanings given below:¶

(a) "Individual" includes but is not limited to: a judgment creditor, obligee, caretaker, child attending school, or adult child.¶

(b) "Other entities" includes but is not limited to: ~~private collection agencies and other state IV-D agencies.~~¶

(2) ~~For the Department of Justice (DOJ), Division of Child Support's (DCS), the primary payment method, method of payment~~ to any individual entitled to receive support payments; is electronic funds transfer (EFT), which may be by:¶

(a) Direct deposit to a checking or savings account that is located in a financial institution in the United States; or¶

(b) Stored value card (including but not limited to ReliaCard).¶

(3) ~~Notwithstanding section (2), DCS~~The Department will disburse support payments to individuals by check when specific exceptions apply:¶

(a) The individual does not have a social security number; or¶

(b) The individual's special circumstances, which ~~DOJ~~the administrator will review on a case by case basis, based on the criteria of whether the issuance of a paper check would be in the best interests of the child(ren).¶

(4) A request for exception must be made in writing.¶

(5) ~~DCS~~The administrator will review the request for exception, determine whether to allow or deny the exception, and notify the requesting party of its decision within 30 days of receipt of the request.¶

(6) ~~DCS~~The administrator's decision is final with regard to the request for exception, but the decision may be appealed as an other than contested case ~~under~~pursuant to ORS 183.484.¶

(7) ~~DCS~~The Department may disburse payments to other entities by EFT, electronic data interchange (~~EDI~~), or by paper check.¶

~~(8) Support payments for individuals who have contracted with a private collection agency will be handled pursuant to OAR 137-055-6025.~~

Statutory/Other Authority: ORS 25.020; 180.345; 293.525

Statutes/Other Implemented: ORS 293.525

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: OAR 137-055-6021 is amended to address distribution for cases managed in both the Child Support Enforcement Automated System (CSEAS) and the Origin child support automated system. The main difference is that CSEAS accounts for and distributes payments to child support and spousal support as a single obligation type; whereas, the Origin child support automated system distributes in a sequence, with current support applied first to child support, second to medical support, and last to spousal support.

The rule is also amended to address the conversion of spousal and child support arrears, which are combined in CSEAS but will be separate in the Origin child support automated system. Provides for an audit and adjustment of the converted balances if a party asserts that the division of child support and spousal support is inaccurate; Includes process for disbursement of child support for obligor's with a 26-week billing cycle, so that the full amount of a support payment will be disbursed within the month remitted, rather than held for the next month.

CHANGES TO RULE:

137-055-6021

Allocation, Distribution, and Disbursement: General Provisions ¶

Unless otherwise specified, this rule applies to cases managed in both the Child Support Enforcement Automated System (CSEAS) and the Origin child support automated system. The terms used in this rule have the meanings set out in OAR 137-055-1020 and 137-055-6010.¶

(1) The Department of Justice (~~DOJ~~) will disburse support payments within two business days after receipt if sufficient information identifying the payee is provided, except:¶

(a) Support payments received as a result of tax refund intercepts will be ~~distributed~~ allocated, and, as appropriate, distributed and disbursed ~~within~~ after thirty calendar days of receipt or, if applicable, within fifteen calendar days of an administrative review or hearing. If the state is notified by the Secretary of the U.S. Treasury (the Secretary) or the Oregon Department of Revenue (~~DOR~~) that an offset on a non-assistance case is from a refund based on a joint return, distribution or disbursement may be delayed, up to a maximum of six months, until notified by the Secretary or ~~DOR~~ the Department of Revenue that the obligor's spouse has been paid their share of the refund;¶

(b) Support payments received from a garnishment will be disbursed as provided in OAR 137-055-4520;¶

(c) Support payments for future support will be distributed and, as appropriate, disbursed as provided in section (1 ~~36~~) of this rule;¶

(d) Support payments for less than five dollars:¶

(A) May be delayed until a future payment is received which increases the payment amount due the family to at least five dollars; or¶

(B) Will be retained by ~~DOJ~~ the Department if case circumstances are such that there is no possibility of a future payment, unless the obligee:¶

(i) Has direct deposit;¶

(ii) Receives ReliaCard payments; or¶

(iii) Requests issuance of a check, if the obligee does not have direct deposit or has an exemption from receiving ReliaCard payments.¶

(e) When an obligor contests an order to withhold, funds will be disbursed pursuant to OAR 137-055-4160(5).¶

(2) ~~DOJ~~ Except as provided in OAR 137-055-6260, the Department will distribute support payments received on behalf of a family who has never received assistance to the family, first toward current support, then toward support arrears, not to exceed the amount of arrears.¶

(3)(a) ~~DOJ~~ The Department may send support payments designated for the obligee to another person or entity caring for the child(ren) if physical custody has changed from the obligee to the other person or entity; however,

prior to doing so, ~~DOJ~~the Department will require a notarized statement of authorization from the obligee or a court order requiring such disbursement. ¶

~~(e)~~(b) ~~DOJ~~The Department will redirect payments for the child who qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110 only in accordance with OAR 137-055-5110. ¶

~~(4) Child support and spousal support have equal priority~~For cases that continue to be managed in CSEAS pending conversion to the Origin child support automated system: ¶

~~(a) Child support and spousal support are combined and treated as a single obligation type in the distribution of payments. ¶~~

~~(5b) Current child support (or combined child and spousal support) and cash medical support will be distributed and disbursed on a prorated basis. To calculate the prorated distribution for each case, the administrator will determine the amount designated as child support and the amount designated as cash medical support, and divide each by the total support obligation. For example: the total support obligation is \$400, of which \$300 is child support and \$100 is cash medical support; a payment of \$300 is received. In this example, the child support is 75 percent of the total support obligation so \$225 would be distributed and disbursed to child support; cash medical support is 25 percent of the total support obligation so \$75 would be distributed and disbursed to cash medical support. ¶~~

~~(6)(a) ¶~~

~~(c) Child support will be distributed and disbursed to arrears owed on each case, in equal shares. ¶~~

~~(5) For cases managed in the Origin child support automated system, collections applied to current support will be distributed in the following priority: first to current child support, second to current medical support, and third to current spousal support. If a court order requires payment of "family support," collections applied to current support will be distributed first to current family support and second to current medical support. ¶~~

~~(6) Upon case conversion from the CSEAS to the Origin child support automated system, combined child and spousal support arrears will be converted by dividing the existing arrears into separate accounts based on the ratio of the current support obligation for both categories. When there is only child support or only spousal support accruing as current support at the time of conversion, this division is as follows: ¶~~

~~(a) If there is only a current child support obligation at the time of conversion, then child and spousal arrears will be converted as child support arrears. ¶~~

~~(b) If there is only a current spousal support obligation at the time of conversion, then child and spousal arrears will be converted as spousal support arrears. ¶~~

~~(7) Upon request of a party asserting that the conversion division between child and spousal arrears is inaccurate, the administrator will perform an audit and if appropriate adjust the converted balances. ¶~~

~~(8) For Oregon support orders or modifications, a prorated share (unless otherwise ordered) of current child or medical support payments received within the month due or an equal share of arrears payments, will be disbursed directly to the child who qualifies as a child attending school under ORS 107.108 and OAR 137-055-5110. ¶~~

~~(b) Any payment received on arrears will be disbursed in equal shares to the obligee.~~9)(a) For cases that continue to be managed in CSEAS pending conversion to the Origin child support automated system: any payment received on arrears will be disbursed in equal shares to the person(s) or parties to whom arrears are owed, as applicable. If support is being paid to a caretaker pursuant to the child if a voluntary redirect, the arrears will be disbursed to the arrears accrued while the child was a child attending school. ¶

~~(7) caretaker as provided in the redirect. ¶~~

~~(b) For cases managed in the Origin child support automated system: any payment received on arrears will be disbursed in prorated shares, based on the proportionate share of each support obligation in relation to the total amount owed. ¶~~

~~(10) If the obligor has a current support obligation for multiple children on a single case, those children have different assistance statuses and the order does not indicate a specified amount per child, current support payments will be prorated based upon the number of children and their assistance status. Support payments in excess of current support for these cases will be distributed and, as appropriate, disbursed as provided in OAR 137-055-6022. ¶~~

~~(8) DOJ~~ (11) The Department will retain the fee charged by the Secretary for cases referred for Full Collection Services per OAR 137-055-4360 from any amount subsequently collected by the Secretary under this program. ~~DOJ~~ The Department will credit the obligor's case for the full amount of collection and distribute and, as appropriate, disburse the balance as provided in OAR 137-055-6022.¶

~~(9)~~ (12) Unless a federal tax refund intercept collection is disbursed to assigned support, ~~DOJ~~ the Department will retain the fee charged by the Secretary. Despite the fee, ~~DOJ~~ the Department will credit the obligor's case for the full amount of the collection and reduce the arrears balance owed to the obligee. If the collection is disbursed to assigned support, ~~DOJ~~ the Department will pay the fee.¶

~~(10)~~ (13) Unless a state tax refund intercept collection is disbursed to assigned support, ~~DOJ~~ the Department will retain the fee charged by the Department of Revenue. Despite the fee, ~~DOJ~~ the Department will credit the obligor's case for the full amount of the collection and reduce the arrears balance owed to the obligee. If the collection is disbursed to assigned support, ~~DOJ~~ the Department will pay the fee.¶

~~(11)~~ (14) Within each arrears type in the sequence of payment distribution and disbursement in OAR 137-055-6022, 137-055-6023 or 137-055-6024, ~~DOJ~~ the Department will apply the support payment to the oldest debt in each arrears type.¶

~~(12)~~ (15) Any excess funds remaining after arrears are paid in full will be processed as provided in OAR 137-055-6260 ~~unless the obligor has elected in writing to apply the credit balance toward future support as provided in section (13) of this rule.~~¶

~~(13) DOJ.~~¶

(16) The Department will distribute and, as appropriate, disburse support payments representing future support on a monthly basis when each such payment actually becomes due. No amounts may be applied to future months unless current support and all arrears have been paid in full, except that if a collection from income withholding was remitted in the amount requested, the Department may either disburse the amount or hold it, even if the amount exceeds arrears owed at the time the payment was received.

Statutory/Other Authority: ORS 25.020, 25.610, 180.345

Statutes/Other Implemented: ORS 18.645, 25.020, 25.610, ~~SB 765 (2017)~~

RULE SUMMARY: OAR 137-055-6023 is amended to specify that the Program will distribute and disburse support payments to one case, rather than proportionately, when the support payment resulted from a garnishment issued pursuant to ORS chapter 18. This will ensure that the Program meets the intent expressed during the development of SB 509 (2017).

The rule is also amended to provide that the Program will distribute and disburse support payments to a single case if the obligor voluntarily makes a payment or agrees to the release of a bond to apply to a specific case in response to a judicial order, including a contempt order requiring the payment.

A new section is added prohibiting payment towards a particular type of obligation or arrears when current support for the month has not been fully satisfied. This will allow an obligor to designate payment to a specific case while also ensuring that payment is applied to child support before other types of support or arrears. Additionally, provisions for payment of a parentage test judgment are removed, since the Program no longer charges or collects this fee.

CHANGES TO RULE:

137-055-6023

Exceptions to Allocation, Distribution, and Disbursement ¶¶

~~(1) Notwithstanding the provisions of OAR 137-055-6021 to 137-055-6024, support payments received as a result of a personal or real property judgment lien may be distributed and disbursed to pay a parentage test judgment.¶¶~~

~~(2) Notwithstanding OAR 137-055-6024, DOJ may distribute and, as appropriate, disburse~~OAR 137-055-6024, the Department may allocate support payments to multiple cases as directed when the obligor or a responding jurisdiction designates in writing the amounts to be ~~distributed and, as appropriate, disbursed~~allocated to each case, if the designation is made at the time of payment.¶¶

~~(3) Notwithstanding OAR 137-055-6024, DOJ will distribute and, as appropriate, disburse~~The Department will allocate support payments to ~~one fewer than all~~ cases, rather than proportionately, when:¶¶

(a) The obligor designates in writing a specific case, or cases, for which payment is to be applied;¶¶

(b) The support payment resulted from a garnishment, issued pursuant to ORS ~~chapter 18~~, on a ~~particular~~single case;¶¶

(c) The support payment resulted from the sale or disposition of a specific piece of property against which a court awarded a specific obligee a judgment lien for child support; or¶¶

(d) ~~The support~~obligor voluntarily makes a payment resulted from a contempt order in a particular case; or¶¶

~~(e) Any other judicial order requires distribution and, as appropriate, disbursement to a particular case or~~agrees to the release of a bond directed to a specific case, or cases, in response to a judicial order, including a contempt order requiring the payment.¶¶

(3) An obligor or responding jurisdiction may not designate that a payment apply to a particular type of obligation within a case. ¶¶

(4) The Department may allocate all or a portion of a voluntary payment designated for a specific support case, proportionately, to the obligor's support cases with unpaid balances, if the designated case was paid in full prior to receipt of the voluntary payment or becomes paid in full as the result of application of a portion of the voluntary payment. ¶¶

(5) The Department may allocate all or a portion of a voluntary payment designated for a receivable or dishonored payment account, proportionately, to the obligor's support cases with unpaid balances, if the designated account

was paid in full prior to receipt of the voluntary payment or becomes paid in full as the result of application of a portion of the voluntary payment.

Statutory/Other Authority: ORS 25.020, 180.345

Statutes/Other Implemented: ORS 25.020

AMEND: 137-055-6210

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: OAR 137-055-6210 is amended by adding a statement at the beginning of the rule, clarifying that the rule only applies to cases managed in the Child Support Enforcement Automated System (CSEAS), since advance payments will not exist in the Origin automated case management system. A new section is also added to address case conversion from CSEAS to the Origin child support automated system.

CHANGES TO RULE:

137-055-6210

Advance Payments of Child Support ¶¶

This a transitional rule that will apply to cases that continue to be managed in the Child Support Enforcement Automated System (CSEAS) pending conversion from CSEAS to the Origin child support automated system. ¶¶

(1) "Advance payment" means:¶¶

(a) The Department of Justice (~~DOJ~~) has transmitted money to an obligee or to a person or entity authorized to receive support payments;¶¶

(b) The amount does not exceed the total arrears available for assignment to the state;¶¶

(c) ~~(A) DOJ has a~~ The Department has: ¶¶

(A) Applied the money incorrectly through no fault or error of the payee; or ¶¶

(B) The amount transmitted by DOJ transmitted an amount that is attributable in whole or in part to a tax refund offset collection, all or part of which has been reclaimed by the Internal Revenue Service or the Oregon Department of Revenue; and¶¶

(d) The payment is not the result of a dishonored check.¶¶

(2) If the obligor is deceased and without assets or an estate, the provisions of this rule do not apply, but the provisions of OAR 137-055-6220 apply.¶¶

(3) The person who receives an advance payment owes the amount of the advance payment to ~~DOJ~~ the Department.¶¶

(4) Instead of directly collecting the amount of the advance payment from the person who received it, the amount will be removed from the ~~arrears owed to the payee, temporarily~~ never assigned arrears or conditionally- assigned arrears owed to the payee and will be assigned to the state as permanently- assigned arrears under OAR 137-055-6010. ~~DOJ~~ The Department will notify the payee in writing of the:¶¶

(a) Amount to be collected as permanently- assigned arrears; and¶¶

(b) Right to object and request an administrative review.¶¶

(5) When an objection is received, ~~DOJ~~ the Department will conduct an administrative review and notify the payee in writing of the:¶¶

(a) Determination resulting from the review; and¶¶

(b) Right to challenge the determination by judicial review under ORS 183.484.¶¶

(6) Notwithstanding the provisions of section (4) of this rule, designation of permanently- assigned arrears to recover advance payments does not affect whether a case is assigned to ~~DOJ~~ the Department as provided in OAR 137-055-2020 or a district attorney office as provided in OAR 137-055-2040.¶¶

(7) For the purposes of this rule, a "dishonored check" is not one which has been paid or made negotiable.¶¶

(8) Upon case conversion from CSEAS to the Origin child support automated system, any balance from an advance payment will be transferred to the balance of family's never assigned arrears, and a corresponding receivable balance will be created in the same amount pursuant to OAR 137-055-6220.

Statutory/Other Authority: ORS 180.345

Statutes/Other Implemented: ORS 25.020

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: OAR 137-055-6220 is amended to expand the criteria for creation of an overpayment in favor of the state, in order to address the Child Support Enforcement Automated System (CSEAS) advance payments that were transferred to the family's arrears upon conversion to the Origin child support automated system. Additionally, the provision requiring notice to the person owing an overpayment is expanded to address the recoupment process in the Origin child support automated system.

CHANGES TO RULE:

137-055-6220

Recovery of Overpayments on Support Accounts ¶¶

~~(1) A child support overpayment in favor of the State of Oregon is created when:¶¶~~

~~(a) The Department of Justice (DOJ) Unless otherwise specified, this rule applies to cases managed in both the Child Support Automated Enforcement System (CSEAS) and the Origin child support automated system. ¶¶~~

~~(1) A child support overpayment in favor of the State of Oregon is created when:¶¶~~

~~(a) The Department of Justice receives a check from an obligor, withholder, or other issuer on behalf of the obligor, transmits the appropriate amount from that check to the payee, and that check is dishonored; or¶¶~~

~~(b) The Department has transmitted money to an obligee, to a person or entity authorized to receive support payments or to an obligor, and that amount:¶¶~~

~~(A) Was transmitted in error or is attributable in whole or in part to a tax refund offset collection, all or part of which has been reclaimed by the Internal Revenue Service or the Oregon Department of Revenue; and¶¶~~

~~(B) Does not qualify as an advance payment under OAR 137-055-6210 or as payment for future support under OAR 137-055-6021(136); or¶¶~~

~~(bC) DOJ receives a check from an obligor, withholder, or other issuer on behalf of the obligor, transmits the appropriate amount from that check to the payee, and that check is dishonored.¶¶~~

~~(2) For overpayments described in subsection (1)(a) Was an advance payment transferred to the balance of family's never assigned arrears when converted from CSEAS to the Origin child support automated system; or¶¶~~

~~(D) Was previously owed to a person but was redistributed as support owed to the state or to a different person or entity as the result of an accounting adjustment.¶¶~~

~~(2) For overpayments described in subsection (1)(b) of this rule or (1)(a) where the party remitting the payment is a person who receives support, sections (3) through (8) of this rule apply. For overpayments described in subsection (1)(b)a of this rule, sections (9) through (12) of this rule apply.¶¶~~

~~(3) DOJ The Department will determine a threshold amount for which attempts to recover the overpayment will occur. In determining the threshold, DOJ the Department will consider the cost of:¶¶~~

~~(a) Staff time in processing the overpayment collection request; and¶¶~~

~~(b) An administrative hearing and the average number of cases requesting a hearing.¶¶~~

~~(4) When a notice is issued under ORS 25.125 to a person or entity described in subsection (1)(a), DOJ b) of this rule, the Department will include a statement that the person or entity:¶¶~~

~~(a) Must respond within 30 days from the date of the notice to object and request an administrative review; and ¶¶~~

~~(b) If appropriate, may v:¶¶~~

~~(a) Voluntarily assign any future support to repay the overpayment. future support to repay the overpayment; or¶¶~~

~~(b) Consent to repay the overpayment by allowing the Department to retain all or a portion of future disbursements. For cases managed in the Origin child support automated system, consent will be provided by default if the Department sends three letters but does not receive a response, within 60 days, from the person or entity described in subsection (1)(b) of this rule. ¶¶~~

~~(5) If the person or entity described in subsection (1)(a)b of this rule requests an administrative review, DOJ the~~



Department will conduct the administrative review within 30 days after receiving the request and notify the person or entity of the results of the review.¶¶

(6) Notice of the results of the administrative review will include a statement that the person or entity described in subsection (1)(~~ab~~) of this rule must respond within 30 days from the date of the notice to object and request an administrative hearing.¶¶

(7) If the person or entity described in subsection (1)(~~ab~~) of this rule files a written objection or request for hearing within 30 days, an administrative law judge shall then hear the objection.¶¶

(a) An order by an administrative law judge is final.¶¶

(b) The person or entity described in subsection (1)(~~ab~~) of this rule may appeal the decision of an administrative law judge to the circuit court for a hearing de novo. The appeal shall be by a petition for review, filed within 60 days after the date that the final hearing order has been mailed.¶¶

(8) If a person or entity described in subsection (1)(~~ab~~) of this rule fails to file a written request for administrative review, objection or request for hearing, fails to voluntarily assign future support, or if an order setting the overpayment amount is received from an administrative law judge, ~~DOJ~~ the Department may refer the overpayment for collection as provided in ORS 293.231.¶¶

(9) When a notice is issued to an obligor, withholder, or other issuer under ORS 25.125(5), ~~DOJ~~ the Department will include a statement that the obligor or withholder must respond within 30 days of the date of the notice and request an administrative review.¶¶

(10) If the obligor, withholder, or other issuer requests an administrative review, ~~DOJ~~ the Department will conduct the administrative review within 30 days after receiving the request and notify the obligor or withholder of the results of the review.¶¶

(11) The obligor, withholder, or other issuer may appeal the result of the administrative review as provided in ORS 183.484.¶¶

(12) If the obligor, withholder, or other issuer fails to request an administrative review or if the result of an administrative review is that an overpayment occurred, ~~DOJ~~ the Department may refer the overpayment for collection from the obligor or withholder as provided in ORS 293.231.

Statutory/Other Authority: ORS 25.125, 180.345, ORS Ch. 293

Statutes/Other Implemented: ORS 25.020, 25.125

RULE SUMMARY: OAR 137-055-6260 is amended to clarify when the Program will return payments to an obligor when no current order exists for ongoing support, when an order has not yet been entered in the child support system, and when Oregon is not the record keeper and the Program receives a payment from another state that exceeds the balance owed.

CHANGES TO RULE:

137-055-6260

Return of Overcollected Support Amounts Payments to Obligor or Other Jurisdiction ¶

(1) When the ~~Division of Child Support (DCS)~~Department of Justice receives a support payment directed to~~an~~ an account for which no current order exists for ongoing support, ~~DCS~~the Department will apply the payment to any arrears the obligor may owe on the account. If any excess funds remain from the payment after any arrears are paid in full, and ~~DCS~~the Department has not forwarded the excess amount to the payee, ~~DCS~~the Department will return the excess amount to the obligor ~~within 30 days of discovering the overcollection.~~¶

(2) On any account for which an ongoing support obligation exists, and ~~DCS~~the Department receives a payment that exceeds the total amount due for current support and arrears and has not forwarded the excess amount to the payee, ~~DCS~~the Department will return the excess amount to the obligor ~~under~~within 30 days of discovering the overcollection, except in the following circumstances:¶

(a) ~~When an income withholding order exists and the excess amount results from a voluntary payment by the obligor.~~¶

(b) ~~The excess amount is from a payment pursuant to an income withholder does not receive or implement a notice from the administrator to reduce withholding to the amount of the current ongoing support obligation in a timely manner, such as may occur after all arrears are collected or after the ongoing support obligation is modified downward; or~~ing order for an employee who is paid weekly or biweekly and the excess amount is for a month with an extra pay period;¶

(c) The support order has not been entered in the child support automated system or arrears that are due under the order are in the process of being added as provided in ORS 25.015 or established as provided in ORS 25.167 or 416.429; or¶

(d) The obligor elects to treat the excess payment as future support as provided in subsection (7) of this rule.¶

(b3) ~~When a state or federal tax refund is intercepted in an amount~~the Department receives a payment from another jurisdiction that exceeds the amount owed for arrears; or¶

(c) ~~When TANF cash assistance is being granted to the obligee or children on the support case, unless the obligor and the administrator agree~~balance(s) owed for the case specified by that jurisdiction, and when that jurisdiction is the record-keeper, the Department will contact that jurisdiction to confirm the balance owed for the case specified and take one of the~~otherwise.~~¶

(3) ~~Notwithstanding following section (1), on any account for which no current order exists for ongoing support, when a withholder sends a payment that exceeds the total amount that should have been withheld under ORS 25.414(1)(d), there is no order for expanded withholding under 25.387, and DCS has not forwarded the excess amount to the obligee, DCSs, as appropriate.~~¶

(a) If the other jurisdiction verifies that support is owed in the amount remitted, disburse the payment to the obligee as a voluntary payment and apply it to the balance after it is updated;¶

(b) If the other jurisdiction indicates that the amount is an over-collection, return it to the other jurisdiction; or¶

(c) If the payment has already been disbursed, and the other jurisdiction later claims that the payment was remitted to Oregon by mistake, the Department will not return the excess amount to the obligor.¶

(4) When DCS payment to the other jurisdiction.¶

(4) When the Department receives a payment that exceeds the total amount due for current support and arrears,

and ~~the Department~~ has forwarded the excess amount to the payee, ~~DCS~~the Department will notify the parties in writing, within 30 days of discovering the overcollection, that:¶

(a) A credit balance in the obligor's favor has resulted from the overcollection; and¶

(b) The obligee or child attending school under ORS 107.108 and OAR 137-055-5110 may, within 30 days of the date of the notice from ~~DCS~~the Department, submit a written request to ~~DCS~~the Department for an administrative review to determine if ~~DCS~~the Department's record-keeping and accounting related to calculation of the credit balance is correct.¶

(5) ~~DCS~~The Department will conduct the administrative review, within 30 days of receiving the party's written request, and will send written notification to the parties of the results of the review.¶

(6) In any case where ~~DCS~~the Department is required to return overcollected funds to an obligor under section (2) of this rule, the obligor may elect to forego the return of some or all of the overcollected funds and to instead use any credit balance amount thus established under this rule to offset the obligor's future ongoing support obligation, ~~genetic test fees~~ or arrears. An obligor wishing to elect this option must notify ~~DCS before~~ ~~DCS~~the Department before the Department has returned such funds to the obligor.

Statutory/Other Authority: ORS 25.020, 25.125, 180.345

Statutes/Other Implemented: ORS 25.020, 25.125