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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOJ 21-2018
CHAPTER 137
DEPARTMENT OF JUSTICE

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Implementing 2017 legislation and Program policies for the new child support automated system.

EFFECTIVE DATE: 09/05/2018 THROUGH 03/03/2019

AGENCY APPROVED DATE: 09/04/2018

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NEED FOR THE RULE(S):

) A temporary revision of OAR 137-055-6022 is necessary to implement SB 509 (2017) and to reflect the correct hierarchy for allocation, distribution and disbursement of payments in the new child support automated system that will be used, beginning 9/5/2018, for some but not all cases. The new system's distribution hierarchy includes multiple sub-accounts that do not exist in the current system.

JUSTIFICATION OF TEMPORARY FILING:

(1) The amendments to OAR 137-055-6022 are needed immediately because the existing rule does not include the distribution hierarchy for all case types and does not address differences in distribution between the existing and new systems, including that the new system has sub-categories that do not exist in legacy and generally distributes to multiple accounts at the same priority level pro rata rather than equally. (2) The temporary rule is required in order that cases that have converted to the new system can receive correct distribution. (3) Failure to act will result in incorrect distribution of payments, which may result in serious prejudice to the public interest or the interest of the parties. (4) The temporary rule adopts the new child support automated system's distribution hierarchy, and the needed changes are beyond the scope of revisions that can be made when finalizing the outstanding Notice of Proposed Rulemaking for this rule.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

n/a

AMEND: 137-055-6022

RULE SUMMARY: OAR 137-055-6022 is amended to specify that current rule provisions only apply to cases managed in the Child Support Enforcement Automated System (CSEAS). Adds a new section specifying distribution and disbursement provisions for cases managed in the Origin child support automated system, which includes the distribution hierarchy for all case types; Removes provisions regarding parentage testing fees as these are no longer collected or charged by the Program.

CHANGES TO RULE:

Distribution and Disbursement ~~When Support Assigned~~ ¶

The terms used in this rule have the meanings set out in OAR 137-055-1020, 137-055-6010 and 137-055-60210. ¶

(1) Sections (2) through (7) and section (14) of this rule apply to cases that continue to be managed in the Child Support Enforcement Automated System (CSEAS) pending conversion to the Origin child support automated system. ¶

(2) Except as provided in OAR 137-055-6021, 137-055-6023, 137-055-6024 and section (45) of this rule, the Department of Justice (~~DOJ~~) will distribute and, as appropriate, disburse support payments received ~~on behalf of~~ while a family is receiving Temporary Assistance for Needy Families (TANF) cash payments in the following sequence: ¶

(a) Current support to the state, not to exceed the amount of unreimbursed assistance; ¶

(b) State's permanently-assigned arrears, excluding advance payment (~~AVP~~) amounts owed to the state ~~under OAR 137-055-6210~~, not to exceed the amount of unreimbursed assistance; ¶

(c) ~~State's temporarily-assigned arrears, not to exceed the amount of unreimbursed assistance;~~ ¶

~~(d) AVP amounts;~~ ¶

~~(e) Advance payment amounts;~~ ¶

(d) Family's unassigned arrears ~~during assistance period~~ arrears; ¶

(f) Family's unassigned arrears; ¶

(g) Family's conditionally-assigned arrears; ¶

(h) ~~If the total amount received is sufficient to pay the arrears in full, any remaining funds may be disbursed to a parentage testing fee if the support payment is from a state tax refund intercept, or if the payment meets the provisions in OAR 137-055-6023(1) & (2).~~ ¶

~~(2) Assigned arrears owed to other jurisdictions, in equal shares.~~ ¶

(3)(a) Except as provided in OAR 137-055-6021, 137-055-6023, 137-055-6024, and section (45) of this rule, the Department of Justice (~~DOJ~~) will distribute and, as appropriate, disburse support payments received on behalf of a family with a child(ren) in foster care or in Oregon Youth Authority (~~OYA~~) custody in the following sequence: ¶

(aA) Current support to the state; ¶

(bB) State's permanently-assigned arrears, excluding AVP advance payment amounts; ¶

(cC) ~~State's temporarily-assigned arrears;~~ ¶

~~(d) AVP~~ Advance payment amounts; ¶

(eD) Family's unassigned arrears ~~during assistance period~~ arrears; ¶

(fE) ~~If the total amount received is sufficient to pay the arrears in full, any remaining funds may be disbursed to a parentage testing fee if the support payment is from a state tax refund intercept, or if the payment meets the provisions in OAR 137-055-6023(1) & (2).~~ Family's pre-assistance never assigned arrears. ¶

(gB) If the state is making foster care maintenance payments on behalf of the child(ren), support payments in excess of the maintenance payments, up to the total support obligation owed, will be reported as excess and be paid to the Department of Human Services (~~DHS~~) to be used in the manner it determines will serve the best interests of the child(ren). ¶

(hC) If the child is in ~~OYA~~ the custody of the Oregon Youth Authority, support payments in excess of unreimbursed assistance, up to the total support obligation owed, will be reported as excess and be paid to ~~OYA~~ the Oregon Youth Authority. ¶

(34) Except as provided in section (45) of this rule, ~~DOJ~~ the Department will distribute and, as appropriate, disburse support payments received on behalf of a family who formerly received or never received assistance in the following sequence: ¶

(a) Current support to the family; ¶

(b) Family's never assigned arrears; ¶

(c) Family's conditionally-assigned arrears; ¶

- (d) Advance payment arrears;
- (e) State's permanently-assigned arrears, not to exceed the amount of unreimbursed assistance;
- (ef) Family's unassigned arrears during assistance period.
- (f) If the total amount received is sufficient to pay the arrears in full, any remaining funds may be disbursed to a
during assistance arrears;
- (g) Assigned arrears owed to other jurisdictions in equal shares.
- (5) The Department will distribute and, as appropriate, disburse support payments received from federal tax
refund intercepts in the following sequence:
- (a) State's permanently assigned arrears, excluding advance payment amounts, 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 conditionally assigned arrears, not to exceed the amount of unreimbursed assistance;
- (d) Advance payment amounts;
- (e) Assigned arrears owed to other jurisdictions, in equal shares;
- (f) Family's conditionally assigned arrears in excess of unreimbursed assistance; and
- (g) Family's unassigned arrears of any type.
- (6) Whenever support payments are assigned to the state, the payments will be either:
- (a) Disbursed to the Department of Human Services if Title IV-E funds were expended to provide foster care
assistance to the family;
- (b) Disbursed to the Oregon Youth Authority if funds were expended by the Oregon Youth Authority to provide
assistance to a member of the family;
- (c) Disbursed to the Oregon Health Authority if current cash medical support or arrears are assigned based on
medical assistance to the child; or
- (d) Retained by the Department as a testing fee if the support payment is from a state tax refund intercept, or if the
payment meets the provisions in OAR 137-055-6023(1) & (2).
- (4) DOJ will distribute and, as appropriate, disburse support payments received from federal tax refund intercepts
in the following sequence:
- (a) State's permanently-assigned arrears, excluding AVP amounts, not to exceed the amount of unreimbursed
assistance;
- (b) State's temporarily assigned arrears if Title IV-A funds were expended to provide TANF cash assistance to the family, except:
- (A) From payments collected toward current child support, the Department will pass through to the obligee no
more than \$50 for each dependent child on the case for which the collection was received, up to a maximum of
\$200 per month, not to exceed the current child support due that month.
- (B) Current child support collected from each obligor may only be passed through for the child(ren) of that obligor
on the case for which the collection was made, even if the maximum pass-through has not been met because the
obligee has other cases for which current support was not collected and a pass through payment was not made.
- (C) The Department will forward the federal share of the retained payments to the federal Office of Child Support
Enforcement.
- (7) Whenever support payments are assigned to a Tribe, the Tribe's share of the payments will be disbursed to the
Tribe as provided in 42 USC 657.
- (8) Sections (9) through (14) of this rule apply to cases managed in the Origin child support automated system.
- (9) Except as provided in OAR 137-055-6021, 137-055-6023, 137-055-6024, and section (10) of this rule, the
Department will distribute and, as appropriate, disburse support payments received while a family is receiving
TANF cash payments in Oregon, in the following sequence:
- (a) To the state, in priority of child support (or family support) first, cash medical support second, and spousal
support third, according to the following sequence:
- (A) Current support;
- (B) Permanently assigned arrears principal; and
- (C) Permanently assigned arrears interest.

(b) To the family, in priority of child support (or family support) first, cash medical support second, and spousal support third, according to the following sequence:¶

(A) Unassigned pre-assistance arrears principal; ¶

(B) Unassigned pre-assistance arrears interest;¶

(C) Conditionally assigned arrears principal; ¶

(D) Conditionally assigned arrears interest; ¶

(E) Never assigned arrears principal; ¶

(F) Never assigned arrears interest;¶

(G) Unassigned during assistance arrears principal; and¶

(H) Unassigned during assistance arrears interest.¶

(c) To Oregon tribes, in priority of child support (or family support) first, cash medical support second, and spousal support third, in pro rata shares according to the following sequence:¶

(A) Permanently assigned arrears principal; and ¶

(B) Permanently assigned arrears interest. ¶

(d) To other jurisdictions or non-Oregon tribes, in priority of child support (or family support) first, cash medical support second, and spousal support third, in pro rata shares according to the following sequence:¶

(A) Permanently assigned arrears principal; and¶

(B) Permanently assigned arrears interest.¶

(e) To the Department, according to the following sequence:¶

(A) Fees; and¶

(B) Futures, to be held until the next support accrual and distributed as if collected in the month of such accrual.¶

(10) The Department will distribute and, as appropriate, disburse support payments received from federal tax refund intercepts in the following sequence:¶

(a) To the state, not to exceed the amount of unreimbursed assistance, in priority of child support (or family support) first, cash medical support second, and spousal support third, according to the following sequence:¶

(A) Permanently assigned arrears principal; and¶

(B) Permanently assigned arrears interest.¶

(b) To Oregon tribes, in priority of child support (or family support) first, cash medical support second, and spousal support third, in pro rata shares according to the following sequence:¶

(A) Permanently assigned arrears principal; and ¶

(B) Permanently assigned arrears interest. ¶

(c) To other jurisdictions or non-Oregon tribes, in priority of child support (or family support) first, cash medical support second, and spousal support third, in pro rata shares according to the following sequence:¶

(A) Permanently assigned arrears, not to exceed the amount of unreimbursed assistance; principal; and¶

(B) Permanently assigned arrears interest.¶

(d) To the state, not to exceed the amount of unreimbursed assistance, in priority of child support (or family support) first, and spousal support second, according to the following sequence:¶

(eA) Family's €Conditionally assigned arrears principal; and¶

(B) Conditionally assigned arrears not to exceed the amount of unreimbursed assistance;¶

(d) AVP amounts; interest.¶

(e) To the family, to the extent conditionally assigned arrears exceed the amount of unreimbursed assistance, in priority of child support (or family support) first, and spousal support second, according to the following sequence:¶

¶

(eA) Family's unConditionally assigned arrears principal; and¶

(B) Conditionally assigned arrears interest.¶

(5f) Whenever support payments are assigned to the state, the state share of the payments will be either:¶

(a) Disbursed to DHS if To the family, in priority of child support (or family support) first, cash medical support second, and spousal support third, according to the following sequence:¶

(A) Unassigned pre-assistance arrears principal; ¶

(B) Unassigned pre-assistance arrears interest;¶

(C) Never assigned arrears principal; ¶

(D) Never assigned arrears interest;¶

(E) Unassigned during assistance arrears principal; and¶

(F) Unassigned during assistance arrears interest.¶

(11) Whenever support payments are assigned to the state, the payments will be either:¶

(a) Disbursed to the Department of Human Services if Title IV-E funds were expended to provide foster care assistance to the family;¶

(b) Disbursed to ~~the Oregon Youth Authority~~ if funds were expended by ~~the Oregon Youth Authority~~ to provide assistance to a member of the family; ~~or~~¶

(c) Disbursed to the Oregon Health Authority if current cash medical support or arrears are assigned based on medical assistance to the child; or ¶

(ed) Retained by ~~DOJ~~ if the Department if Title IV-A funds were expended to provide TANF cash assistance to the family, except that:¶

(A) ~~As From~~ payments are received each month, ~~DOJ~~ collected toward current child support, the Department will pass through to the obligee no more than \$50 for each dependent child on the case for which the collection was received, up to a maximum of \$200 per month, not to exceed the current child support due in the case for that month.¶

(B) Current child support collected from each obligor may only be passed through for the child(ren) of that obligor on the case for which the collection was made, even if the maximum pass-through has not been met.¶

~~(6) Whenever support payments are assigned to a Tribe, the Tribe's share of the payments will be disbursed to the Tribe as provided in 42 USC 657 because the obligee has other cases for which current support was not collected and a pass through payment was not made. ¶~~

(C) The Department will forward the federal share of the retained payments to the federal Office of Child Support Enforcement. ¶

(12) Whenever support payments are assigned to a Tribe, the Tribe's share of the payments will be disbursed to the Tribe as provided in 42 USC 657. ¶

(13) Except as provided in OAR 137-055-6021, 137-055-6023, 137-055-6024, and section (10) of this rule, the Department will distribute and, as appropriate, disburse support payments received for a family that formerly received or never received TANF cash payments in Oregon, in the following sequence: ¶

(a) Current support owed to the family, in priority of child support (or family support) first, cash medical support second, and spousal support third. ¶

(b) Arrears owed to the family, in priority of child support (or family support) first, cash medical support second, and spousal support third, according to the following sequence:¶

(A) Never assigned arrears principal; ¶

(B) Never assigned arrears interest; ¶

(C) Unassigned pre-assistance arrears principal; ¶

(D) Unassigned pre-assistance arrears interest;¶

(E) Conditionally assigned arrears principal; and¶

(F) Conditionally assigned arrears interest. ¶

(c) To the state, in priority of child support (or family support) first, cash medical support second, and spousal support third, in the following sequence: ¶

(A) Permanently assigned arrears principal; and¶

(B) Permanently assigned arrears interest.¶

(d) To Oregon tribes, in priority of child support (or family support) first, cash medical support second, and spousal support third, in pro rata shares, according to the following sequence:¶

(A) Permanently assigned arrears principal; and ¶

(B) Permanently assigned arrears interest. ¶

(e) To the family, in priority of child support first, and spousal support second, according to the following sequence:

¶

(A) Unassigned during assistance arrears principal; and ¶

(B) Unassigned during assistance arrears interest. ¶

(f) To arrears owed to other jurisdictions or non-Oregon tribes, in priority of child support (or family support) arrears first, cash medical support arrears second, and spousal support arrears third, in pro rata shares according to the following sequence:¶

(A) Permanently assigned arrears principal; and¶

(B) Permanently assigned arrears interest.¶

(g) To the Department, according to the following sequence:¶

(A) Fees; and¶

(B) Futures, to be held until the next support accrual and distributed as if collected in the month of such accrual.¶

(14) When providing services as a responding jurisdiction, the Department will forward unassigned current support and arrears that is distributed to the family to the initiating jurisdiction that is providing services to the family.

Statutory/Other Authority: ORS 25.020, 180.345

Statutes/Other Implemented: ORS 25.020, 25.150