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ARCHIVES DIVISION
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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOJ 28-2018
CHAPTER 137
DEPARTMENT OF JUSTICE

FILED
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ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Modification of a Support Order to Zero or Termination of a Support Order

EFFECTIVE DATE: 12/28/2018 THROUGH 06/25/2019

AGENCY APPROVED DATE: 12/26/2018

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Filed By:
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NEED FOR THE RULE(S):

Amendments to this rule is needed to clarify Program policy regarding modification and termination of child support orders.

JUSTIFICATION OF TEMPORARY FILING:

The amendments to OAR 137-055-3480 are needed immediately because the existing rule unintentionally limits the types of modifications depending on the circumstances. Failure to act may result in serious prejudice to the public interest or the interest of the parties. The added flexibility to the rule allows the Program to take the most appropriate action for the family based on the family's circumstances.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

n/a

AMEND: 137-055-3480

RULE TITLE: Modification of a Support Order to Zero or Termination of a Support Order

RULE SUMMARY: OAR 137-055-3480 is amended to incorporate termination language and to add flexibility in decision making, allowing an order to be terminated if the parties have reconciled.

RULE TEXT:

- (1) The administrator may, upon its own initiative, or upon the request of a party, initiate the necessary action to modify a child support obligation to zero when one of the conditions listed in subsections (a), (b), and (c) of this section apply:
- (a) The minor child or children for whose benefit the support was ordered are no longer in the physical custody of the obligee.
 - (b) The family has reconciled (that is, the obligor, obligee, and minor children live together as an intact family).
 - (c) Support rights are not assigned to the state and the obligee has requested that the administrator modify the support obligation to zero.
- (2) If modifying under subsections (1) (a) or (c), and there is an adult child:

- (a) A tier as defined in OAR 137-055-1020 may be included for the adult child; or
- (b) The order may be modified to remove support provisions for the adult child but can be modified later to include support provisions for a child attending school if the adult child qualifies for support under ORS 107.108.
- (3) No order modifying a support obligation to zero shall be taken ex parte.
- (4) Nothing in this rule prohibits the suspension of support accrual under any order for the reason that the obligor receives cash assistance as provided in ORS 25.245, or qualifies as an incarcerated obligor, as provided in ORS 25.247.
- (5) An order may be terminated if the children covered by the order are being added to a different order or if the family has experienced a change of circumstances that makes a support order unnecessary or legally inappropriate, including but not limited to reconciliation of the parents or relinquishment of parental rights.

STATUTORY/OTHER AUTHORITY: ORS 180.345, 416.455

STATUTES/OTHER IMPLEMENTED: ORS 25.287, 416.425