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ARCHIVES DIVISION
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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DOJ 3-2019
CHAPTER 137
DEPARTMENT OF JUSTICE

FILED

03/29/2019 9:08 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Establishment or Modification for a Child Attending School

EFFECTIVE DATE: 04/01/2019 THROUGH 09/27/2019

AGENCY APPROVED DATE: 03/27/2019

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Filed By:
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NEED FOR THE RULE(S):

Amendments to this rule are needed to ensure that medical coverage can continue to be ordered for a child who qualifies for support as a child attending school.

JUSTIFICATION OF TEMPORARY FILING:

Failure to immediately amend OAR 137-055-3485 could result in the loss of health care coverage for a child attending school. The amendments are needed immediately because the existing rule only allows medical support to be ordered from a parent who has been ordered to pay cash child support or cash medical support for the child. A parent who has previously provided health care coverage, but has never paid cash support, cannot be ordered to continue to provide health care coverage under the existing rule language. 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 medical support to continue to be ordered, ensuring that there will be no break in coverage for the child.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

n/a

AMEND: 137-055-3485

RULE SUMMARY: The rule inadvertently prevents the Program or the Office of Administrative Hearings (OAH) from ordering a parent who receives support to provide, or continue to provide, health care coverage for a child attending school if they had not previously been ordered to provide cash child support or cash medical support for that child. This amendment allows the Program or OAH to order either parent to provide health care coverage regardless of whether they have previously been ordered to provide cash child support or cash medical support.

CHANGES TO RULE:

137-055-3485

Establishment or Modification for a Child Who Is Approaching or Has Reached 18 Years of Age ¶

- (1) For purposes of this rule, "support" includes past support, current support and support for the time a child is expected to be a child attending school pursuant to ORS 107.108.¶
- (2) The administrator may not initiate the establishment of paternity or support for a child after the child turns 18 years old.¶
- (3) Legal proceedings initiated before a child turns 18 years old may continue after the child has turned 18 years old.¶
- (4) The administrator may initiate modification of a support obligation for a child nearing age 18 only if four or more months of support will be impacted.¶
- (5) ~~¶Except as provided in (6) of this rule,~~ the administrator may initiate modification of a support obligation for a child attending school, as defined in OAR 137-055-5110, but only from a parent previously or currently ordered to pay cash child support or cash medical support in an amount greater than zero for that child, and only if four or more months of support will be impacted.¶
- (6) When an order is being modified in accordance with (5) of this rule, one or both parents may be ordered to provide health care coverage for a child attending school regardless of whether they have previously been ordered to provide cash child support or cash medical support.¶
- (7) If an order is modified and did not include support provisions for an adult child because the child was 18, 19 or 20 years old and was not qualified as a child attending school, as defined in OAR 137-055-5110, the order can be modified to include support for the child if the child later qualifies as a child attending school provided at least four months of support will result.

Statutory/Other Authority: ORS 25.080, 180.345, 416.430

Statutes/Other Implemented: ~~ORS 25.010, 25.080, 25.287, 107.105, 107.108,~~ 107.135, 109.100, 109.510, 109.704, 110.503, 416.425, 416.455, 418.001, 418.035, 419C.590, 419B.400, ORS 25.010, 25.080, 25.287, 107.105, 107.108