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RULES:

137-055-1070, 137-055-1090, 137-055-1140, 137-055-1160, 137-055-1800, 137-055-3100, 137-055-5400, 137-055-6010

AMEND: 137-055-1070

RULE TITLE: Provision of Services

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-1070 is amended to require a request from a party prior to issuing an income withholding order (IWO) when a support order is received without an application or referral.

RULE TEXT:

(1) For the purposes of this rule, the following definitions apply:

(a) "Full services case" means a case in which the full range of support enforcement services required under ORS 25.080(4) are provided;

(b) "Limited services case" means a case in which the provisions of ORS 25.080 do not apply and one or more collection, accounting, distribution and disbursement or enforcement services are provided pursuant to state or federal law;

(c) An "establishing paternity only" case means a case in which the only service requested under ORS 25.080 by a party is the establishment of paternity for a minor child.

(2) When any Oregon judgment or support order for child or spousal support is received, the administrator will:

(a) If the order requires payment of child support or child and spousal support, whether or not through the Department of Justice, and no application or other written request for support enforcement services has been received:

(A) Create an information only case on the child support automated system if one does not already exist to receive and disburse payments in accordance with OAR 137-055-6021; and

(B) Send the parties a letter explaining why no services will be provided. The letter must include a statement that the parties may apply for support enforcement services at any time, if the order includes a provision for child support.

(b) If the order requires payment of spousal support only and is accompanied by a request from the obligor or obligee for collection, accounting, distribution, disbursement and enforcement services, process the order pursuant to OAR 137-055-2045.

(c) If the order received without an application or referral is accompanied by a request from the obligor or obligee for

services sufficient to permit establishment of income withholding for child support or child and spousal support as provided in ORS 25.381(2)(a):

(A) Create a limited services case if one does not already exist;

(B) Establish income withholding under ORS 25.378; and

(C) Receive and disburse payments in accordance with OAR 137-055-6021.

(d) If the provisions of subsection 2(a) or (c) apply and a party subsequently completes an application or other written request for support enforcement services, the administrator will process the application or request in accordance with OAR 137-055-1060.

(3) When a person applies for services under OAR 137-055-1060 for establishment or enforcement of a child support order, the case is a full services case.

(a) The administrator will perform all mandated services under state and federal law; and

(b) The administrator will determine which non-mandated services will be provided, but may consider input from the applicant in making that determination.

(4)(a) When a person applies for services under OAR 137-055-1060 and there is more than one parent who may be obligated to pay support, the applicant may apply for services:

(A) To establish and collect support from only one parent; or

(B) To establish and collect support from more than one parent.

(b) A separate application under OAR 137-055-1060 is required for each parent the applicant wishes to pursue.

(5) When a parent or alleged parent applies for "establishing paternity only" services as defined in subsection (1)(c), the program will accept the case and provide "paternity establishment only" services if:

(a) The child was born in Oregon;

(b) The administrator has jurisdiction to establish paternity;

(c) There is no legal presumption of parentage under ORS 109.070;

(d) Paternity is not already established;

(e) The child does not receive public assistance; and

(f) The program is not already providing full services.

(6) A parent or alleged parent applying for "establishing paternity only" services as defined in subsection (1)(c) must complete an application for services in substantially the same form as an application under OAR 137-055-1060.

STATUTORY/OTHER AUTHORITY: ORS 180.345

STATUTES/OTHER IMPLEMENTED: ORS 25.020, 25.080, 25.140, 25.164, 25.381, 107.108

AMEND: 137-055-1090

RULE TITLE: Good Cause

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-1090 is amended to clarify that when a participant in the Address Confidentiality Program (ACP) has obtained a confidential name change, in order to protect the privacy of the ACP participant, the Program will close for good cause any existing case for a parent that was opened using the parent's former name.

RULE TEXT:

(1) For the purposes of OAR chapter 137, division 055, good cause means the Child Support Program (CSP) is exempt from providing services as defined in ORS 25.080. Specifically excluded from this definition are good cause for not withholding as defined in ORS 25.396 and OAR 137-055-4060 and good cause found for not disbursing support to a child attending school under ORS 107.108 and OAR 137-055-5110.

(2) If an obligee believes that physical or emotional harm to the family may result if services under ORS 25.080 are provided, the obligee may request, either verbally or in writing, that the administrator discontinue all activity against the obligor. Upon such a request by an obligee, the administrator will:

(a) On an open TANF or Medicaid case, immediately suspend all activity on the case, notify DHS or OHA to add good cause coding, and send a safety packet to the obligee requesting a response be sent to DHS; or

(b) On any other case, immediately suspend all activity on the case, add good cause case coding pending a final determination, and send a Client Safety Packet on Good Cause to the obligee requesting a response within 30 days.

(3) Good cause must be determined by:

(a) The Department of Human Services (DHS), pursuant to OAR 413-100-0830, 461-120-0350, 461-135-1200 or 461-135-1205, if TANF or Title IV-E benefits are being provided;

(b) The Oregon Health Authority (OHA), pursuant to OAR 461-120-0350 and 410-200-0220, if Medicaid benefits are being provided;

(c) The Oregon Youth Authority (OYA), pursuant to OAR 416-100-0020 and Policy Statement I-B-7.0, if the child is in OYA's custody;

(d) The Director of the CSP when the provisions of OAR 137-055-3080 apply; or

(e) The administrator when the provisions of subsections (a) through (d) of this section do not apply.

(4) When the provisions of subsection (3)(e) apply and the obligee makes a written claim that the provision of services may result in emotional or physical harm to the child or obligee or completes and returns the good cause form, the administrator will:

(a) Make a finding and determination that it is in the best interests of the child not to provide services;

(b) Proceed with case closure pursuant to OAR 137-055-1120; and

(c) File credit all arrears.

(5) In determining whether providing services is in the best interest of the child under section (3)(d), the CSP Director will consider:

(a) The likelihood that provision of services will result in physical or emotional harm to the child or obligee, taking into consideration:

(A) Information received from the obligee; or

(B) Records or corroborative statements of past physical or emotional harm to the child or obligee, if any.

(b) The likelihood that failure to provide services will result in physical or emotional harm to the child or obligee;

(c) The degree of cooperation needed to complete the service;

(d) The availability and viability of other protections, such as a finding of risk and order for non-disclosure pursuant to OAR 137-055-1160; and

(e) The extent of involvement of the child in the services sought.

(6) A finding and determination by the CSP Director that good cause does not apply, may be appealed as provided in ORS 183.484.

(7) A finding and determination of good cause applies to any case which involves the same obligee and child, or any case in which a child is no longer in the physical custody of the obligee, but there is a support order for the child in favor of the obligee.

(8) When an application for services is received from an obligee and TANF, Title IV-E or Medicaid benefits are not being provided, the child is not in OYA's custody, and there has been a previous finding and determination of good cause, the administrator will:

(a) Notify the obligee of the previous finding and determination of good cause and provide a Client Safety Packet;

(b) Allow the obligee 30 days to retract the application for services or return appropriate documents from the Client Safety Packet; and

(c) If no objection to proceeding or good cause form is received from the obligee, document CSEAS, remove the good cause designation and, if the case has been closed, reopen the case.

(9) When an application for services is received from a physical custodian of a child, the physical custodian is not the obligee who originally claimed good cause and TANF, Title IV-E or Medicaid benefits are not being provided, the child is not in OYA's custody and there is no previous support award, the administrator will open a new case without good cause coding with the physical custodian as the obligee.

(10)(a) When an application for services is received from a physical custodian of a child, the physical custodian is not the obligee who originally claimed good cause and TANF, Title IV-E or Medicaid benefits are not being provided, the child is not in OYA's custody, and the case in which there has been a finding and determination of good cause has a support award in favor of the obligee who originally claimed good cause, the administrator will:

(A) Notify the obligee who originally claimed good cause that an application has been received and provide a Client Safety Packet; and

(B) Advise the obligee who originally claimed good cause that the previous good cause finding and determination will be treated as a claim of risk as provided in OAR 137-055-1160; and

(C) Allow the obligee 30 days to provide a contact address as provided in OAR 137-055-1160.

(b) If an objection or good cause form is received from the obligee who originally claimed good cause, or if the location of the obligee who originally claimed good cause is unknown, the administrator will forward the objection, form or case to the Director of the CSP for a determination of whether to proceed;

(c) If no objection or good cause form is received from the obligee who originally claimed good cause, the administrator will document CSEAS, make a finding of risk and order for non-disclosure pursuant to OAR 137-055-1160 for that obligee, remove the good cause designation, and, if the case has been closed, reopen the case.

(11)(a) If a request for services under ORS chapter 110 is received from another jurisdiction and TANF, Title IV-E or Medicaid benefits are not being provided by the State of Oregon, the child is not in OYA's custody and there has been a finding and determination of good cause, the administrator will:

(A) Notify the referring jurisdiction of the finding and determination of good cause and request that the jurisdiction consult with the obligee to determine whether good cause should still apply; and

(B) If the location of the obligee is known, notify the obligee that the referral has been received, provide a Client Safety Packet and ask the obligee to contact both the referring agency and the administrator if there is an objection to proceeding; and

(C) Advise the obligee who originally claimed good cause that the previous good cause finding and determination will be treated as a claim of risk as provided in OAR 137-055-1160; and

(D) Allow the obligee 30 days to provide a contact address as provided in OAR 137-055-1160.

(b) If an objection or good cause form is received from the obligee, the administrator will forward the objection, form or case to the Director of the CSP for a determination of whether to proceed.

(c) If there is no objection or good cause form received from the obligee, or if the obligees address is unknown, and the referring jurisdiction advises that the finding and determination of good cause no longer applies, the administrator will document CSEAS, remove the good cause designation and, if the case has been closed, reopen the case.

(12) If a referral for services under ORS 25.080 is received because TANF, Title IV-E or Medicaid benefits are being

provided or the child is in OYAs custody, and there has been a good cause determination, the administrator will notify the state agency currently providing services of the previous good cause determination. The administrator will not provide services unless the program currently providing services determines good cause no longer applies and requests the administrator remove the coding.

(13) Notwithstanding any other provision of this rule, when a case has not previously had a good cause finding and determination and TANF, Title IV-E or Medicaid benefits are being provided or the child is in OYA's custody, and DHS, OHA or OYA makes a current good cause finding and determination on a related case, the administrator will not provide services on the case or related cases unless and until good cause coding is removed by DHS, OHA or OYA.

(14) In any case in which a good cause finding and determination has been made and subsequently removed, past support under ORS 416.422 and OAR 137-055-3220 may not be sought for any periods prior to the determination that good cause no longer applies.

(15) In any case in which a good cause finding and determination has been made, and a child attending school as defined in ORS 107.108 and OAR 137-055-5110 is a party to the case, the child attending school may file an application for services pursuant to OAR 137-055-1060, OAR 137-055-1070 and OAR 137-055-5110.

(16) If a participant in the Address Confidentiality Program obtains a confidential name change, and the administrator is unable to provide services without impairing the health or safety of a participant or a child, the administrator may close for good cause any case for the participant.

STATUTORY/OTHER AUTHORITY: ORS 180.345

STATUTES/OTHER IMPLEMENTED: ORS 25.080

AMEND: 137-055-1140

REPEAL: Temporary 137-055-1140 from DOJ 2-2018

RULE TITLE: Confidentiality of Records in the Child Support Program

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-1140 is amended to clarify several issues related to authorized disclosures of child support confidential information and certain personal information in specific situations. Issues addressed include: disclosure for the purpose of a child support hearing; disclosure of information to a child attending school regarding arrears owed to them; disclosure to a third-party when written authorization is provided; child abuse reporting to Department of Human services; and reporting potential threat of physical harm to law enforcement.

RULE TEXT:

- (1)(a) As used in this rule, "employee" means a person employed by the Department of Justice (DOJ) or a District Attorney office that provides Child Support Program services;
- (b) "Party" has the meaning given in OAR 137-055-1020, or a party's attorney.
- (2) For purposes of this rule, "case record" means all information residing in all Child Support Program computer systems, electronic data storage, and paper files, including but not limited to:
- (a) The names of the obligor, beneficiary and obligee or other payee;
 - (b) The addresses of the obligor, beneficiary and obligee or other payee;
 - (c) The contact address and address of service of the obligee, beneficiary or obligor;
 - (d) The name and address of the obligor's or obligee's employer;
 - (e) The social security numbers of the obligor, the obligee and beneficiaries;
 - (f) The record of all legal and collection actions taken on the case;
 - (g) The record of all accrual and billings, payments, distribution and disbursement of payments;
 - (h) The narrative record; and
 - (i) The contents of any paper file relating to a child support case.
 - (j) All information extracted from other agencies' electronic records, as defined in ORS 84.004.
- (3) Except as provided in section (5) of this rule, child support case records are confidential and may not be disclosed or used except for purposes directly connected to the administration of the Program.
- (4) For purposes of this rule, "purposes directly connected to the administration of the Child Support Program" includes the following:
- (a) The disclosure of information necessary to process a Child Support Program legal action.
 - (b) Information shared as provided in 45 CFR 303.21, ORS 25.260(5), OAR 137-055-1320, and 137-055-1360, or other agency rule;
 - (c) Information shared as required by state or federal statute or rule;
 - (d) The disclosure of information to elected federal and state legislators, the Governor, or the county commissioners to address a constituent complaint.
- (A) Elected federal and state legislators and the Governor are considered to be within the chain of oversight of the Child Support Program. Information about a child support case may be shared with these elected officials and their staff in response to issues brought by constituents who are parties to the case;
- (B) County commissioners serve in a representative for their constituents and are entitled to receive information necessary to respond to questions or concerns about child support cases received from their constituents. District Attorneys are Department sub-recipients. Therefore, Child Support Program Administration may also respond to constituent issues brought by county commissioners on District Attorney administered child support cases where the constituent is a party.
- (e) The disclosure of information to a party's interpreter.
- (f) The disclosure of information to the executor of an estate or personal representative of a deceased party that the deceased party would have been entitled to receive.

(g) The disclosure of information to a private industry council as provided in 42 USC 654a(f)(5).

(A) The information released under this subsection may be provided to a private industry council only for the purpose of identifying and contacting noncustodial parents regarding participation of the noncustodial parents in welfare-to-work grants under 42 USC 603(a)(5).

(B) For the purposes of this subsection, "private industry council" means, with respect to a service delivery area, the private industry council or local workforce investment board established for the service delivery area pursuant to Title I of the Workforce Investment Act (29 USC 2801, et seq.). "Private industry council" includes workforce centers and one-stop career centers.

(h) The disclosure of information about a child support case to a party to that case.

(i) The disclosure of payment and other accounting information to a former child attending school to whom arrears are owed if relevant to the child.

(5) Upon request, the Program may, to the extent that it does not interfere with meeting its own obligations and subject to such requirements as the Office of Child Support Enforcement may prescribe, disclose confidential information to state agencies as necessary to assist them to carry out their responsibilities under plans and programs funded under titles IV (including Tribal programs under title IV), XIX, or XXI of the Social Security Act, and the Supplemental Nutrition Assistance Program (SNAP), including:

(a) Any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such plan or program; and

(b) Information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child under circumstances which indicate that the child's health or welfare is threatened.

(6) Except as specifically required or authorized by statute or rule, the following personal information about the parties and child unrelated to a purpose under section (4) should be redacted from documents before release. Information about a party need not be redacted when releasing information to that party.

(a) Residence or mailing address;

(b) Social security number;

(c) Telephone number;

(d) Employer's name, address and telephone number;

(e) Financial institution account information;

(f) Driver's license number;

(g) Date of birth;

(h) Day care provider's name and address; and

(i) Any other information which may identify the location of the minor child or party.

(7) All but the last four digits must be redacted from information described in subsections (6)(b), (6)(e), or (6)(f) of this rule whenever the information is released unless the full number is specifically required or authorized by law or is otherwise necessary.

(8) Case status and payment history may be provided to a party via the Child Support Program web page if appropriate personal identifiers, such as social security number, case number, or date of birth are provided in order to access such information.

(9) Where there is a finding of risk and order for nondisclosure of information pursuant to OAR 137-055-1160, all nondisclosable information must be redacted before documents are released.

(10) Requestors may be required to pay for the actual costs of staff time and materials to produce copies of case records before documents are released.

(11) Information that would normally be disclosed to a party to a child support case can be disclosed to a third party if:

(a) The party has granted written consent to release the information to the third party and the third party provides the party's Social Security number, child support case number, or other identifying information sufficient to verify the speaker's identity as the authorized third party;

- (b) The party has granted verbal consent to release the information to the third party, applicable for the single phone call or conversation during which the party provided consent; or
- (c) The person has power of attorney for the party, the duration and scope of which authorizes release of the requested information from a case record at the time that the person requests such information. The power of attorney remains in effect until a written request to withdraw the power of attorney is submitted by the party or by the person, unless otherwise noted on the power of attorney. Each time the person designated by the power of attorney contacts the Program on behalf of the party, the person must provide the party's Social Security number, child support case number, or other identifying information sufficient to verify the person's identity.
- (12) A child support case account balance is derived from the child support judgment, which is public information, and from the record of payments, which is not. Therefore, the case balance is not public information, is confidential, and may not be released to persons not a party except as otherwise provided in this rule.
- (13) Information obtained from the Internal Revenue Service or the Oregon Department of Revenue is subject to confidentiality rules imposed by those agencies even if those rules are more restrictive than the standards set in this rule, and may not be released for purposes other than those specified by those agencies.
- (14) Criminal record information obtained from the Law Enforcement Data System or any other law enforcement source may be used for child support purposes only and may not be disclosed to parties or any other person or agency outside of the Program. Information about the prosecution of child support related crimes initiated by the administrator may be released to parties in the child support case.
- (15) Employees with access to computer records or records of any other nature available to them as employees may not access such records that pertain to their own child support case or the child support case of any relative or other person with whom the employee has a personal friendship or business association. No employee may perform casework on their own child support case or the case of any relative or other person with whom the employee has a personal friendship or business association.
- (16)(a) When an employee has reasonable cause to believe that a child has suffered abuse as defined in ORS 419B.005(1)(a) the employee may make a report to the Department of Human Services, and must make a report if abuse is witnessed while providing Program services. The report may include otherwise confidential information, except:
- (A) Information from the Internal Revenue Service or a financial institution data match, unless independently verified; or
- (B) Information that would interfere with Program obligations, including information that could be harmful to a victim of child abuse or domestic violence if disclosed to the Department of Human Services.
- (b) If the child's safety is at immediate risk, a report may be made to law enforcement pursuant to section (21) of this rule.
- (17) Employees who are subject to the Oregon Rules of Professional Conduct must comply with those rules regarding mandatory reporting of child abuse.
- (18) If an employee discloses or uses the contents of any child support records, files, papers or communications in violation of this rule, the employee is subject to progressive discipline, up to and including dismissal from employment.
- (19) To ensure knowledge of the requirements of this rule, employees with access to computer records, or records of any other nature available to them as employees, are required annually to:
- (a) Review this rule and the Program's automated tutorial on confidentiality;
- (b) Complete with 100 percent success the Program's automated examination on confidentiality; and
- (c) Complete the certificate acknowledging confidentiality requirements. The certificate of completion must be in the form prescribed by the Program.
- (20)(a) For Department employees, each certificate of completion must be forwarded to, or be accessible electronically by, the Department's Human Resources office, with a copy kept in the employee's local office drop file or saved in an electronic format;
- (b) For District Attorney employees, each certificate of completion must be kept in accordance with county personnel

practices.

(21) Notwithstanding any other provision of this rule, an employee may provide child support confidential information to a local law enforcement agency when the employee reasonably believes or a local law enforcement agency asserts that it is necessary to prevent death or physical harm to any person(s).

STATUTORY/OTHER AUTHORITY: ORS 25.260, 180.345

STATUTES/OTHER IMPLEMENTED: ORS 25.260, 127.005, 411.320

AMEND: 137-055-1160

RULE TITLE: Confidentiality — Finding of Risk and Order for Nondisclosure of Information

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-1160 is amended to clarify that when a child of an Address Confidentiality Program (ACP) participant reaches the age of 18, if the child is eligible for or is receiving services as a child attending school pursuant to ORS 107.108, then the Program may file a claim of risk for nondisclosure of information regarding the child.

RULE TEXT:

(1) For the purposes of this rule in addition to the definitions found in OAR 137-055-1020, the following definitions apply:

(a) "Claim of risk for nondisclosure of information" means a claim by a party to a paternity or support case made to the administrator, an administrative law judge or the court that there is reason to not contain or disclose the information specified in OAR 137-055-1140(6) because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information;

(b) "Finding of risk and order for nondisclosure of information" means a finding and order by the administrator, an administrative law judge or the court, which may be made ex parte, that there is reason to not contain or disclose the information specified in OAR 137-055-1140(6) because the health, safety or liberty of a party or child would unreasonably be put at risk by disclosure of such information.

(2) A claim of risk for nondisclosure of information may be made to the administrator by a party at any time that a child support case is open. Forms for making a claim of risk for nondisclosure of information will be available from all child support offices and be made available to other community resources. At the initiation of any legal process that would result in a judgment or administrative order establishing paternity or including a provision concerning support, the administrator will provide parties an opportunity to make a claim of risk for nondisclosure of information.

(3)(a) When a party makes a written and signed claim of risk for nondisclosure of information pursuant to section (2) of this rule, the administrator will make a finding of risk and order for nondisclosure of information unless the party does not provide a contact address pursuant to section (5) of this rule;

(b) When a party is accepted into the Address Confidentiality Program, the administrator will make a finding of risk and order for nondisclosure of information. The party's contact address will be the Address Confidentiality Program substitute address designated by the Attorney General pursuant to OAR 137-079-0150.

(4) An administrative law judge will make a finding of risk and order for nondisclosure of information when a party makes a claim of risk for nondisclosure of information in a hearing unless the party does not provide a contact address pursuant to section (5) of this rule.

(5) A party who makes a claim of risk for nondisclosure of information under subsection (3)(a) or section (4) must provide a contact address that is releasable to the other party(ies) in legal proceedings. The claim of risk for nondisclosure of information form provided to the party by the administrator must have a place in which to list a contact address. If a requesting party does not provide a contact address, a finding of risk and order for nondisclosure of information will not be made.

(6) When an order for nondisclosure of information has been made, the administrator must redact any of the identifying information specified in section (1) from all pleadings, returns of service, orders, or any other documents that would be sent to the parties or would be available as public information in a court file. Any document sent to the court that contains any of the information specified in section (1) must be transmitted separately in a manner that notifies the court of the confidential nature of the contents or as provided by UTCR 2.130.

(7) A finding of risk and order for nondisclosure of information entered pursuant to this rule will be documented on the child support case file and will remain in force until such time as the Address Confidentiality Program participant or party who requested a claim of risk retracts the claim or requests dismissal in writing.

(8) A party who requested a claim of risk may retract the claim on a form provided by the administrator. When a signed retraction form is received by the administrator, the administrator will enter, or will ask the court to enter, a finding and

order terminating the order for nondisclosure of information.

(9) Any information previously protected under an order for nondisclosure of information will be subject to disclosure when the order for nondisclosure of information is terminated. The retraction form provided by the administrator will advise the requestor that previously protected information may be released to the other party(ies).

(10) In cases where the administrator is not involved in the preparation of the support order or judgment establishing paternity, or when child support services under ORS 25.080 are not being provided, any claim of risk for nondisclosure of information pursuant to ORS 25.020 must be made to the court.

(11) Notwithstanding section (5) of this rule, where the court has made a finding of risk and order for nondisclosure of information and the case is receiving or subsequently receives child support services pursuant to ORS 25.080, the administrator will implement the court's finding pursuant to this rule. In such a case, the administrator will use, in order of preference, the party's contact address as contained in the court file, or the party's contact address previously provided to the Child Support Program. If no contact address is available through either of these sources, the administrator will send a written request to the party, asking that the party provide a contact address. The written request from the administrator must advise the party that if no contact address is provided within 30 days, the administrator will use, in order of preference, the party's mailing or residence address as the contact address, and the new contact address may be released to the other party(ies).

(12) When the child of a participant in the Address Confidentiality Program reaches the age of 18, and the child is eligible for or is receiving services as a child attending school pursuant to ORS 107.108, a claim of risk for nondisclosure of information regarding the child may be made by the administrator. If a claim is made, the child will be asked to provide a contact address, which must be certified as safe by the parent participating in the Address Confidentiality Program. If the child does not provide a contact address certified as safe by the parent participating in the Address Confidentiality Program, no child support services will be provided for the child.

STATUTORY/OTHER AUTHORITY: ORS 25.020, 180.345

STATUTES/OTHER IMPLEMENTED: ORS 25.020, 192.820 to 192.858

AMEND: 137-055-1800

RULE TITLE: Limited English Proficiency

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-1800 is amended to clarify when information must be translated and to provide additional flexibility for the Program to choose how to translate information.

RULE TEXT:

For the purposes of providing child support services required by ORS 25.080 to Limited English Proficiency (LEP) persons, the following provisions apply:

(1)(a) "Eligible population" means persons eligible to receive child support services pursuant to ORS 25.080.

(b) "Vital information" means information that:

(A) Affects a person's substantive rights;

(B) Notifies a person about rights or services;

(C) Tells a person what process to use to respond; or

(D) Tells a person what the findings are or what to pay.

(2) At least once each biennium, the Child Support Program (Program) will identify languages for which vital information will be translated without the need for a request from a party. To determine the languages, the Program will use the following criteria:

(a) The estimated size of the eligible population speaking the specific language;

(b) The number of language line calls made over the last two years for the specific language; and

(c) The cost of the written translation.

(3) If the number in subsection (2)(a) is 1,000 or 5% of the eligible population in Oregon, whichever is less, vital information for that language will be translated without the need for a request from a party.

(4) If the number of language line calls in subsection (2)(b) is 500 or more, vital information for that language will be translated without the need for a request from a party.

(5) Notwithstanding sections (3) or (4), when an LEP person needs a translation, the Program may choose to either provide a written translation of the vital information or facilitate the use of other translation services, including language lines or other providers, to provide an oral translation of the vital information.

(6) When an LEP person needs to verbally communicate with the Program, the Program may facilitate the use of Program certified bilingual or multilingual staff, a language line, or other interpretation providers, as appropriate.

STATUTORY/OTHER AUTHORITY: 28 CFR 42.405, ORS 180.345

STATUTES/OTHER IMPLEMENTED: ORS 25.080

AMEND: 137-055-3100

RULE TITLE: Order Establishing Paternity for Failure to Comply with an Order for Parentage Testing

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-3100 is amended to clarify that if an alleged father submits a written denial of paternity in response to a proposed Order Establishing Paternity with an administrative order for genetic tests, the Program may enter an order establishing paternity by default if the alleged father fails to appear for genetic testing.

RULE TEXT:

(1) In an action to establish paternity initiated pursuant to ORS 416.415, the administrator may serve simultaneously the Notice and Finding of Financial Responsibility, a proposed Order Establishing Paternity, and an administrative order for genetic tests.

(2) An administrative order for genetic tests may require either the mother of the child in question or a person who is a possible father of the child to file a denial of paternity in order to receive a genetic test, or it may require testing regardless of whether a party denies paternity and requests testing.

(3) The administrator may enter an order establishing paternity when:

(a) All parties have been served with a Notice and Finding of Financial Responsibility, a proposed Order Establishing Paternity, and an order requiring genetic tests;

(b) The mother of the subject child has named the male party as a possible father; and

(c) The male party denied paternity and subsequently failed to appear for genetic testing.

(4) An order establishing paternity based on a failure to submit to genetic tests may be entered:

(a) Whether or not a responsive answer has been filed; and

(b) Whether or not corroboration exists to support a declaration of a party naming a male party as a father or possible father of the child in question, provided that the male party has either:

(A) Been named in a declaration by the mother as a possible father of the child; or

(B) Has named himself in a declaration as the father of the child.

(5) The provisions of this rule apply to the additional genetic tests described in OAR 137-055-3020(11) to (14), when the party requesting the tests fails to comply with an order for additional genetic testing.

STATUTORY/OTHER AUTHORITY: ORS 180.345

STATUTES/OTHER IMPLEMENTED: ORS 109.070, 109.252, 416.430

AMEND: 137-055-5400

RULE TITLE: Obligor Receiving Cash Assistance, Presumed Unable to Pay Child Support

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-5400 is amended to extend the timeframe for submission of written proof of SSI/SSDI from an obligor who resides out of state from a quarterly basis to an annual one. New information is often not available and out of state obligors were unable to meet the quarterly deadline.

RULE TEXT:

(1) Cases for obligors receiving cash assistance as specified in ORS 25.245 from Oregon will be identified and processed as set forth in ORS 25.245.

(2) Obligor receiving cash assistance as specified in ORS 25.245 from another state or tribe must provide to the administrator written proof of receipt of such cash assistance. The written proof must:

(a) Be resubmitted in a current version:

(A) Every three months thereafter if the benefits received are cash payments under a Title IV-A cash assistance or general assistance program of another state or tribe; or

(B) Every 12 months thereafter if the benefits received are under the federal Supplemental Security Income Program; and

(b) Include the date the cash assistance payment was first made, the amount of the cash assistance for each and every month in which cash assistance was received, and the ending date, if known, of the cash assistance; and

(c) Be official documentation, recognized by the issuing agency, that covers each and every month that cash assistance was received, including but not limited to a benefits award letter, deposit record or receipt.

(3)(a) When an obligor has provided written proof of receipt of cash assistance pursuant to section (2) of this rule, the administrator will, subject to section (5) of this rule, credit the case for arrears accrued from the date the obligor submitted written proof of receipt of cash assistance back to the date the cash assistance was first made, but not earlier than October 6, 2001;

(b) When an obligor notifies the administrator that they are no longer receiving cash assistance, the administrator will begin accrual and billing pursuant to the support order currently in effect with the next support payment due following the end of the last month that the obligor received public assistance;

(c) If the obligor fails to provide written proof of receipt of cash assistance pursuant to section (1) of this rule, and the administrator has not received verification from an independent source, the administrator will begin accrual and billing pursuant to the support order currently in effect with the next support payment due for the month following the month for which the obligor last provided written proof;

(d) If the obligor provides written proof of receipt of cash assistance pursuant to section (2) of this rule after failing to provide timely written proof of receipt of cash assistance as provided in subsection (2)(a), thereby causing the administrator to begin billing and accrual pursuant to subsection (c) of this section, support accrual may be suspended and arrears may be credited pursuant to subsection (4)(a) of the rule.

(4)(a) Upon receipt of information that the obligor is receiving or has received cash assistance as specified in ORS 25.245(1), the administrator will send a notice to all parties to the support order. The notice will contain a statement of the presumption that support accrual ceases and include the following:

(A) A statement of the month in which cash assistance was first made, and the ending date, if known;

(B) A statement that, unless the party objects, child support payments cease accruing beginning with the support payment due on or after the date the obligor began receiving cash assistance, but not earlier than:

(i) January 1, 1994, if the obligor received Oregon Title IV-A cash assistance, Oregon general cash assistance, Oregon Supplemental Income Program cash assistance or Supplemental Security Income Program payments by the Social Security Administration; or

(ii) October 6, 2001, if the obligor received Title IV-A cash assistance or general cash assistance from another state or Tribe;

- (C) A statement that the administrator will continue providing enforcement services, including services to collect any arrears;
 - (D) A statement that if the obligor ceases to receive cash assistance as specified in ORS 25.245(1), accrual and billing will begin with the next support payment due following the end of the last month that the obligor receives cash assistance or for which the obligor provided written proof;
 - (E) A statement that any party may object to the presumption that the obligor is unable to pay support by sending to the administrator a written objection within 30 days of the date of service;
 - (F) A statement that the objections must include a written description of the resource or other evidence that might rebut the presumption of inability to pay; and
 - (G) A statement that the entity responsible for providing enforcement services represents the state and that low cost legal counsel may be available.
- (b) Included with each notice under this section will be a separate form for the party to use if they choose to file an objection to the presumption that the obligor is unable to pay support.
- (5) No credit will be given for periods for which the court or administrative law judge has previously declined to suspend the obligor's child support obligation in an action under ORS 25.245;
- (6) No credit will be given for months when the administrator had suspended accrual or where credit was already received.
- (7) Notwithstanding sections (1) and (2), the administrator may request proof of obligor's receipt of cash assistance at any time while the Program is providing services when necessary to confirm continued eligibility for suspension of accruals.

STATUTORY/OTHER AUTHORITY: ORS 25.245, 180.345

STATUTES/OTHER IMPLEMENTED: ORS 25.245

AMEND: 137-055-6010

RULE TITLE: Definitions for Distribution and Disbursement

NOTICE FILED DATE: 03/15/2018

RULE SUMMARY: OAR 137-055-6010 is amended to address assignment of support when a child is in foster care or in custody of the Oregon Youth Authority (OYA). The rule has previously provided that arrears owed to the parent will be temporarily assigned to the state if a child is in foster care or in OYA custody. This has included arrears that accrued both while the child was in foster care or OYA custody, as well as arrears that accrued while the child was in custody of the parent(s). The amendment will no longer allow the state to assign prior arrears that had accrued while the child was in custody of the parent(s). This has previously been the practice regarding TANF recipients, and it will now also apply to children in foster care and OYA custody. In addition, this amendment clarifies that any arrears assigned to the state will be de-assigned from the state and moved back to the family account if DHS is collecting an overpayment from the custodial parent for the same period of time.

RULE TEXT:

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 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.

STATUTORY/OTHER AUTHORITY: 180.345, ORS 25.020, 25.165

STATUTES/OTHER IMPLEMENTED: ORS 25.020, 412.024, 418.032