

**137-055-3430**

**Substantial Change in Circumstance Modification of Child Support Order Amounts**

(1) For purposes of this rule: "Substantial compliance" means that the difference between the existing support order and the amount calculated using current guidelines is not greater than \$50 or 15% of the current guideline amount, whichever is less.

(2) Notwithstanding OAR 137-055-3420, proceedings may be initiated at any time to review and modify a support obligation based upon a substantial change in circumstance.

(3) The administrator will conduct a review based on a request for a change of circumstance modification when:

(a) Oregon has jurisdiction to modify; and

(b) The administrator:

(A) Receives a request for modification based on a change of circumstance and at least 60 days have passed from the date the existing support order was entered. For those cases where a review is requested pursuant to paragraphs (3)(c)(I), (J), or (K), there is no need for 60 days to have passed; or

(B) Determines that a modification should be initiated based on the administrator's motion; and

(c) At least one of the following criteria is met:

(A) A change in the written parenting time agreement or order has taken place;

(B) The financial or household circumstances of one or more of the parties are different now than they were at the time the order was signed as a final order by the administrator, an administrative law judge, or a circuit court judge;

(C) Social Security benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(D) Veterans benefits received on behalf of a child due to a parent's disability or retirement were not previously considered in the order or they were considered in an action initiated before May 12, 2003;

(E) Survivors' and Dependents' Education Assistance benefits received by the child or on behalf of the child were not previously considered in the order;

(F) The needs of the child(ren) have changed;

(G) Since the date of the last order or January 1, 2018, whichever is later, the obligor was incarcerated for at least 180 consecutive days or was released from incarceration as defined in OAR 137-055-3300;

(H) The support order has been suspended and reinstated under OAR 137-055-3300 and qualifies for a review pursuant to ORS 25.247;

(I) There is a need to add or change medical support provisions for a child;

(J) A change in the physical custody of a minor child has taken place;

(K) An order is being modified to add or remove a child of the parties;

(L) A child who is 18 years of age or older and under 21 years of age does not qualify as a child attending school under ORS 107.108 and OAR 137-055-5110 and, pursuant to ORS 107.108(10), tiered order provisions will be added, removed, or changed. Tiered order has the meaning given in OAR 137-055-1020.

(d) And the requesting party (if other than the administrator) submits the following documentation, or its equivalent:

(A) A written request for modification based on a substantial change of circumstance (signature is not required if it can be determined who submitted the request);

(B) Appropriate information for the criteria in subsection (3)(c) showing that a substantial change of circumstance has occurred; and

(C) A completed Uniform Income and Expense Statement or Uniform Support Declaration.

(4) Upon receipt of a request for modification, or at the administrator's initiative, the administrator will notify the parties of the review in writing, allowing the parties 30 days to provide information that may affect the support calculation.

(5) A request for modification will be granted:

(a) If the order is not in substantial compliance with the guidelines and the request was due to one of the criteria in paragraphs (3)(c)(A) through (3)(c)(F).

(b) Whether or not the order is in substantial compliance with the guidelines, so long as:

(A) The request was due to one of the criteria in paragraphs (3)(c)(G) through (3)(c)(L), or

(B) The new calculation:

(i) Includes consent by the parties as provided in OAR 137-050-0765;

(ii) Includes compelling factors as provided in OAR 137-050-0750;

(iii) Includes application of rebuttals, as provided in OAR 137-050-0760; or

(iv) Is for a modification to consider receipt of Social Security or Veterans benefits as provided in paragraphs (3)(c)(C) or (D).

(6) If the request for modification is granted, the administrator will advise the parties of the guideline child support obligation. Notification may be by motion for modification and will include a request for hearing form.

(7) If there is an adult child on the case:

(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.

(8) If a request under this rule is denied, a party may contest the administrator's finding as provided in ORS 183.484.

(9) No provision of this rule prevents the parties from obtaining the services of private legal counsel at any time to pursue modification of the support order.

(10) If a request for review and modification is received because a change in the physical custody of the minor child(ren) has taken place, a party may also request a credit back to the date the change in physical custody took place in accordance with OAR 137-055-5510.

Stat. Auth.: ORS 25.247, 25.505 & 180.345

Stats. Implemented: ORS 25.080, 25.247, 25.287, 25.321 to 25.343, 25.527, 107.108 & 107.135

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