

CHILD SUPPORT HEARINGS

The information in this flyer applies to administrative hearings to establish or modify child support.

What Are My Hearing Rights?

You have a right to a hearing to:

- establish paternity
- establish child support
- modify child support
- determine child support debt (arrearage)

The hearing may be with Oregon's Office of Administrative Hearings (OAH), or it may be a court hearing. In some cases, you don't have the right to a hearing but you may ask the child support program to do a review of your case.

What Is A Hearing?

A hearing is a process to get information from both parties to decide how much child support should be paid and whether health insurance should be ordered. The hearing will also consider how much past support should be ordered. If there has been a child support order in another state, the hearing may be about the enforcement of the child support order.

Most administrative child support hearings are held by telephone. The hearing is the first chance you have to tell your side of the story to someone who will make a decision about your child support. The only way you can tell your side of the story is by participating in the hearing.

How To Request A Hearing

When the child support agency (DCS or the DA) starts a child support or paternity establishment or modification case, it will send you and the other party a document called "Notice and Finding of Financial Responsibility." This document will tell you how much money in current and past support the child support program thinks should be paid. Additionally, it will tell you if medical coverage

will be required, and in some cases, it will also ask that paternity is established. The papers will always have a child support worksheet, showing you what information was used to figure out how much child support should be paid.

The packet will have a form that you must fill out if you want to request a hearing. If you don't agree with everything that the child support agency is asking for in the papers, you should request a hearing. If no one requests a hearing, then an order will be entered for whatever the child support agency has asked for in the Notice and Finding of Financial Responsibility.

When you request a hearing, you will be asked to fill out a "Uniform Income Statement" and send it back to the child support agency with your hearing request. You should try to provide the child support agency with as much information as you can because it will help your case. When you have filled out this form, you should mail it to the child support agency indicated on the papers. You should also keep a copy of it and the hearing request for your own records.

When To Ask For A Hearing

You must ask for a hearing within 20 days of the date you received the papers, but you should ask for a hearing as soon as possible. If your case is also a paternity case, then you have 30 days to request a hearing.

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After you request a hearing, the child support agency will send you a packet of information that you will need for the hearing. OAH will send you a notice, telling you when your hearing will be. The hearing is conducted by an Administrative Law Judge (ALJ).

How Can I Get A Hearing Postponed?

If you cannot be at the hearing, call OAH right away. Your hearing notice will have the telephone number on it.

OAH will decide whether your hearing time can be changed. If it is changed, you will get a new notice with the new date and time. If the hearing cannot be changed, you should participate in the hearing. If you do not, the hearing will take place without you and you will not have a chance to tell your side of the story.

If you must miss the hearing, you can appeal the decision of the ALJ to court. You can also ask the ALJ to reopen your case if you miss the hearing due to circumstances beyond your control.

OAR 137-003-0670

Your Rights At the Hearing

- *You have a right to bring an attorney, a paralegal that works for a Legal Aid program, or a law student supervised by a law school clinic to the hearing.*
- *You have the right to present witnesses and written proof at the hearing to help you prove your case.*
- *You have the right to ask questions of the other party and the other party's witnesses.*
- *You are entitled to an interpreter if you need one*

How Should I Prepare For The Hearing?

- Be sure you have read and understand all the papers sent to you by the child support agency.
- Make a list of the things you want the ALJ to know about your case.
- Decide whether you need witnesses or written papers to help you prove something. Examples of papers that are helpful are pay stubs, tax returns, and information about medical insurance that is available. If you plan to use documents at the hearing, you must send copies of them to the ALJ, the child support agency and the other party. These documents should be sent well in advance of the hearing.

If you decide to use a witness, you should have that witness with you at the time of the hearing. If the witness is not willing to testify, you may ask the ALJ to subpoena the witness. Make sure you call the OAH and ask for any subpoenas well in advance of the hearing date.

- Be sure you know how child support is calculated and what information you need to do the child support calculation. If you would like to see a copy of the child support guidelines, you can go to your nearest DCS or DA office and ask to see it or you can find it on the internet at www.dcs.state.or.us. The website also has a child support calculator that you can use. Before the hearing, you should know:

- (1) The gross income of each parent,
- (3) Whether either parent is supporting other children
- (4) The amount paid for child care for the joint child/ren
- (4) Whether medical insurance is available to cover the child/ren and the cost.
- (5) Any other medical expenses for the children that are not covered by insurance, and
- (6) And Social Security or Veterans benefits received by the child/ren.

If there are any other unusual expenses or other income information about you or the other party that you think will help the ALJ, then you should be ready to talk about that. Some examples are expected salary increases, bonuses, income from a second job or investments, or special needs that your children may have.

- Call your child support worker a few days before the hearing and ask if they have more recent income information about the other party. Ask them to provide a copy of that information to the ALJ before the hearing.

- The child support agency will send you a package of documents before the hearing. This will include the Notice and Finding of Financial Responsibility, proof that you were sent the papers, a copy of the hearing request, copies of the income information used by the child support agency in calculating child support, and any other documents relating to child support, including Uniform Income Statements if they have been filed. Be sure to read these papers and have them with you at the hearing.
- Call the OAH at the time scheduled for the hearing. Follow the instructions on the hearing notice for what to do if you don't get through.
- If you want more financial information about the other party, such as W-2 forms and tax returns, you should contact the other party to see if he or she is willing to give you the information. If not, you can file a petition with the ALJ telling the ALJ what documents you need which the other party wasn't willing to give them to you. Then you can ask the ALJ for an order requiring the other party to give the information to you. OAR 137-003-0570. You should send a copy of this request to the child support enforcement agency and the other party. The ALJ may order the other person to give you the documents you request or may decide that it is not necessary. If you think you still need the information at the hearing, then you can ask the ALJ again to make the other party produce the documents.

What Happens At A Hearing?

The ALJ will conduct the hearing by telephone. If you want to have a face-to-face hearing, you can ask the ALJ in advance. Sometimes, the ALJ will allow you to appear in person but the other party may still participate by telephone.

The hearing will be recorded. Everyone who testifies at the hearing will be put under oath.

The ALJ will explain what happens at the hearing

and then begin to get information from the parties. The ALJ will question one of the parties and then give every other party the chance to ask questions as well. After the ALJ is done with one party, he will question the other party. Everyone can hear what is said, and will be able to ask questions of each witness. If you have other witnesses, you should tell the ALJ at the beginning of the hearing.

Ask the ALJ to help you bring out facts and information. Even though the ALJ works for OAH, it is the ALJ's job to help you show any facts that are important to your case. This includes helping you to get documentation if you are unable to get it yourself.

If you don't understand something, ask the ALJ to explain it.

If the child support agency's information is wrong or the information given by the other party is wrong, try to show this by:

- asking questions
- having your own witnesses testify
- testifying yourself, and
- using documents.

Go over the list you made before the hearing to make sure you haven't forgotten anything.

Remember that the hearing decision will be based only on the evidence given at the hearing, so you must be sure to present all important information to the ALJ. If you couldn't get all the information in time for the hearing, ask the ALJ if you can send it to him or her within two weeks. Then be sure to send it as promised.

After The Hearing

The ALJ will make a decision and issue a written order based on the testimony and evidence given during the hearing. The order will say how much child support should be paid and, if it is the first child support order, how much past support should be paid. It will also say whether medical insurance must be provided. You will probably receive the hearing order within three weeks after the hearing.

When you receive the ALJ's order, you should review it carefully. If you disagree with it, you can request rehearing or reconsideration within 60 days. You must send a Petition for Reconsideration or Rehearing to the ALJ saying that you are requesting reconsideration or rehearing and give the reason why you think the order is wrong. You must send a copy to the other party and the child support agency. You will get a written decision from the ALJ. The written decision may be a denial of your request or an order saying that there will be another hearing or a new child support order may be entered.

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Instead of requesting reconsideration or rehearing, or, if you are still not satisfied with the child support order after you have requested reconsideration and rehearing, you may ask for a court hearing. This must be done within 60 days after your child support order is "docketed". "Docketing" means that the child support agency has sent the order to the court, where it will be filed and given a case number. When that happens, it has the same effect as a court order. You will get a notice telling you that the order has been docketed with the court.

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In order to request a court hearing in Multnomah County, you should go to the court clerk's office and ask for the child support hearing form. They will give you a one page form to fill out and file. You will have to pay a court filing fee, but you can ask the court to waive the fee if you can't afford to pay it. Ask the court clerk for the request form.

If your case is not in Multnomah County, check with the court clerk to see if they have a form to request a hearing. If not, call your local Legal Aid office to request the form. The court will schedule the hearing for you and send you a notice. The DA or DCS will serve the papers on the other parent. This procedure may be different in other counties, so be sure to call the court clerk in your county to find out what their procedure is. At that hearing,

you will do the same thing as you did during the telephone hearing, except this hearing will be in person before a judge. The judge will make a new decision.

Paternity Cases

If paternity has not been established before, the child support agency will include establishment of paternity in the Notice and Finding of Financial Responsibility. If you are the person named as the father and you don't think you are, you must complete and send in the denial of paternity form within 30 days. The child support agency will send both parties a notice to take genetic tests to determine paternity. If you still deny you are the father after the genetic tests, then the case will go to court for a trial.

If you believe you are the father but don't agree with the amount of child support, or if you are the mother and don't agree with the amount of child support, you can request a hearing on the amount of support by completing the Request for Administrative Hearing form.

What if I Disagree with Visitation or Custody?

When the child support order is entered in a paternity case or in an administrative case to establish child support, the person having physical custody of the child at the time the case started will have legal custody by law unless there is a different custody order by a court.

Custody and parenting time cannot be decided at an administrative child support hearing. If you want to settle the custody and parenting time matters, you must go to court.

If you have further questions regarding your hearing, the Child Support Helpline may be able to assist you further. 1-800-383-1222.

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