

GENERAL INFORMATION FOR HAWAII ADMINISTRATIVE CHILD SUPPORT HEARINGS

by the

Office of Child Support Hearings

Department of the Attorney General
State of Hawaii

DEFINITIONS and ABBREVIATIONS

- OCSH: Office of Child Support Hearings
- CSEA: Child support Enforcement Agency
- HO: Hearings Officer
- Court(s): Hawaii Family Court
- Department: Department of the Attorney General
- DHS: Department of Human Services, State of Hawaii
- TANF: Temporary Assistance for Needy Families (cash welfare assistance from DHS)
- MedQUEST: (medical insurance assistance from DHS)
- NOH: Notice of Hearing

OCSH CONTACT INFORMATION

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Hours: 7:30 a.m. – 4:30 p.m.

LAWS & RULES

STATUTES (Laws):

- Chapter 91, Hawaii Revised Statutes
(Public Proceedings)
- Chapter 576E, Hawaii Revised Statutes
(Administrative Process for Child Support)

RULES:

- Title 5, Chapter 34, Hawaii Administrative Rules
(Practice and Procedure for Administrative Process)

EXECUTIVE BRANCH

GOVERNOR



ATTORNEY GENERAL



CSEA

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JUDICIAL PROCESS v. ADMINISTRATIVE PROCESS

JUDICIAL = Family Courts

- Child support
- Child support arrears/debt
- Medical insurance
- Custody
- Visitation
- Divorce
- Paternity
- Guardianship
- Protective orders
- Adoption

ADMINISTRATIVE =

CSEA and OCSH

- Child support
- Child support arrears/debt
- Medical insurance

No jurisdiction over

- Custody
- Visitation
- Divorce
- Paternity
- Guardianship
- Protective orders
- Adoption

CSEA

Creates and enforces child support orders

- Federal Programs: TANF, MedQUEST
- Non Federal Programs: Anyone else
- Bound by Federal rules, regulations, and deadlines

Processes child support payments

- Receives payments
- Maintains payment records
- Divides payments between accounts/obligations
- Distributes payments

OCSH

- OCSH becomes involved in a case after a hearing is requested and CSEA schedules it
- Hearings Officers are attorneys
- Hearings Officers have the same power and authority as Family Court Judges for limited issues
- Hearings Officers conduct fair and impartial hearings
- Hearing Officers make decisions and issue written orders

INITIATING AN ACTION

WHO CAN APPLY FOR SERVICES:

- Responsible Parent, Custodial Parent, or Caretaker of a child

- DHS if there is
 - TANF
 - MedQUEST

PROCESSING AN ACTION

CSEA CASE PROCESSING:

- CSEA may request information from the parties
- CSEA may calculate the child support guidelines based on information it has
- CSEA calculates arrears or debt based on information it has
- CSEA serves a proposed order/notice of action on the parties
- If a party objects to the proposed order/action, they can request a hearing

PROPOSED ORDER

- In most cases, a proposed administrative order is created and served on the parties by CSEA
- Issues included in the proposed order:
 - Establishment (start) of child support
 - Modification (change) of child support
 - Termination (stop) child support
 - Arrearages (unpaid ordered child support)
 - Debt (back support owed to the State)
 - Medical insurance coverage
- Order does not say “proposed,” but if it is not signed and filed at court, it is not a final order

OBJECTING TO A PROPOSED ORDER

- If a party objects to a proposed order/action, they must request a hearing
 - There is a Request for Hearing form included with the proposed administrative order
 - Parties should fill it out and return it to CSEA
 - CSEA may request a hearing on its own
- If a hearing is requested, CSEA will schedule a hearing. OCSH will send hearing notices to the parties
- If no hearing is requested, the proposed order may be signed as a final default/uncontested order by the CSEA Administrator. CSEA will then file it at court and then it becomes a final and binding order
- In some circumstances, CSEA may schedule a hearing

MULTIPLE PROPOSED ORDERS

- Sometimes parties are served with more than one proposed administrative order or notice of an action
- A party must request a hearing for each proposed order or action they object to
- After the hearings are scheduled, a party may request that the hearings be scheduled on the same day and at the same time (consolidated)

NOTICE OF THE HEARING

- CSEA schedules a hearing and prints out a Notice of Hearing form (NOH)
- OCSH mails the NOH to the parties
- NOHs are sent by regular mail to the last known address of the parties on file with CSEA
- NOHs list the date and time of the hearing
- Parties should read the entire NOH, because it contains important information
- All hearings in Hawaii are conducted by phone (and not in-person)

PRE-HEARING REQUESTS

- Types of pre-hearing requests parties can make:
 - To continue/reschedule a hearing
 - To cancel or consolidate a hearing
 - For accommodations (interpreters)
 - For subpoenas
 - To be represented
- Requests should be made as early as possible
- Requests are given to the Hearings Officer to review
- If there is no response, then assume the request was denied
- **Forms are on website at: <http://hawaii.gov/ag/ocsh>**

REPRESENTATION AT THE HEARING

For a hearing:

- Parties can represent themselves
- Parties may have an attorney represent them (they must chose and pay for the attorney themselves)
- Parties may have a non-attorney represent them
- CSEA represents the State of Hawaii, and may not appear at a hearing if there is no State interest
- Others will not be able to participate unless they are witnesses

CONTESTED HEARING

If a contested hearing is conducted:

- Hearings are scheduled for **60 minutes**
- The HO will make a digital recording of the hearing
- The HO will place the parties under oath
- The parties can:
 - Present evidence (testimony and documents)
 - Object to evidence presented against them
 - Explain what they want or don't want, and why
 - Ask questions
- Issues are limited to those in the proposed order/action
- If a party does not appear, a hearing is conducted anyway
- If more time is needed, the HO may continue the hearing

EVIDENCE

- Evidence can be testimony or documents
- Documents should be readable, authentic, and original when possible/necessary
- Copies of documents may be given to others
- Parties should redact (remove) personal/identifying information including: Social Security numbers, bank account numbers, credit card numbers, addresses, and phone numbers
- CSEA will not give copies of any documents it receives from the parties to OCSH
- It is the responsibility of the parties to give OCSH documents before the hearing. Even if some documents are the same as they may have previously given to CSEA
- Parties can submit documents to OCSH by mail, fax, email, or delivery

COMMON DOCUMENTS

- Income information
 - Pay/income statements/paystubs
 - Benefit statements (SS, VA, UIB, TDI, WC)
 - W-2 forms
 - Tax returns with schedules and attachments
- Medical insurance premium costs
 - Out of pocket payments
 - Cost of a single plan, and cost of a family plan or additional coverage
 - Can include medical, dental, vision, and drug plans
- Child care expenses
 - Name of provider, proof of participation/enrollment by the child
 - Proof of out of pocket payments
 - For only during the time the parent works

OTHER COMMON DOCUMENTS

- Filed court orders that include:
 - Child support
 - Custody and visitation
 - Any other relevant information
- Proof of child support payments made
 - CSEA records
 - Cancelled checks
 - Copies of money orders, cashier's checks
 - Copies of pay or paystubs/benefit statements
 - Bank statements
- Verification of continuing education of an adult child
 - Documents should come from the school/institution/program
 - Full-time enrollment is defined by the school/institution/program

CHILD SUPPORT MODIFICATION

- Usually the last child support order continues until changed by another order
- If an order is less than 3 years old, the party requesting modification must show a substantial/and material change in circumstances that warrants modification
- The outcome of the calculation may be opposite of what a party wants, so there is some risk
- Modification can only take effect the month after the parties were served with the proposed order, not from the date of the request for modification (like in the Family Court)

CHILD SUPPORT CALCULATION

Child support is calculated:

- Using the latest version of the Hawaii child support guidelines (CSG)
- CSG are used statewide in both the administrative and judicial processes
- Gross monthly income of the parties is used
- Gross monthly income may be imputed or attributed, based on evidence presented and arguments made
- The presumptive child support amount must be ordered unless a party can prove exceptional circumstances

TERMINATION OF CHILD SUPPORT

- Usually an order includes the duration/length of child support and how it is paid (directly, or through CSEA)
- In most Hawaii orders, child support continues to age 18/graduation from high school, and up to 23 if a child is a full-time student
- Child support usually does not stop if a child is still in high after they turn 18 years old
- Child support may not stop if the child is incompetent or dependent

HEALTH INSURANCE COVERAGE

- Coverage for children is usually for medical/health, but can also include dental, vision, and drug coverage
- Costs may be included in the child support calculation if a party proves:
 - The cost of their insurance
 - The cost of the child(ren)'s insurance
 - The amount of people covered by the insurance plan(s)
 - Costs must be paid by the party and not someone else, and not be subsidized

CHILD SUPPORT ARREARS

- Arrears are unpaid court ordered child support
- Arrears are based on child support orders
- Arrears orders include total amount owed, time period covered, repayment amount, start date
- The monthly repayment amount is in addition to ongoing child support
- Records of payments can include:
 - Cancelled checks
 - Copies of money orders, cashier's checks
 - Pay/benefit statements
 - Bank statements
 - CSEA records

APPEAL

- Clerical mistakes, oversights, and omissions in a filed order can be addressed through an amended order
- BUT If a party disagrees/objects to a final order they can appeal
- They must:
 - File the appeal in the court where the order is filed
 - File within 30 days after they receive the order
 - Pay for the filing fees and to make a transcript
- The appeal is based on the transcript of the hearing and the file from the hearing. It will not include statements that were not recorded, documents submitted after the hearing, events occurring after the hearing, or issues not raised/discussed at the hearing

REVIEW: THE BIG PICTURE

- CSEA receives an application for services
- CSEA gathers preliminary information
- CSEA prepares a proposed order
- CSEA serves the proposed order or notice of action
- A party objects and requests a hearing
- OCSH sends Notice of Hearing
- Parties make pre-hearing requests to OCSH
- HO conducts a hearing
- HO makes a decision and issues a final order
- CSEA files order at court and sends copy to parties
- Parties can appeal to Family Court