



Ohio Administrative Code

Rule 5101:1-1-90 Ohio works first: state tax refund offset program.

Effective: August 1, 2022

(A) What is the state tax refund offset program?

(1) The state tax refund offset program allows the offset of Ohio income tax refunds to collect delinquent aid to dependent children, temporary assistance to needy families, and Ohio works first (OWF) program overpayment claims.

(2) Periodically, but no less than annually, the Ohio department of job and family services (ODJFS) certifies to the Ohio department of taxation a list of applicable debtors.

(3) The Ohio department of taxation offsets the certified debts against income tax refunds payable to the debtors, and notifies the debtors and ODJFS of offsets which have been made.

(B) When is a claim referred to the state tax refund offset program?

To refer a claim to the state tax refund offset program, the following criteria must be met:

(1) The claim must be past due. A claim becomes past due when a cash payment has not been received for ninety consecutive days on an established overpayment. An established overpayment is one in which an adult responsible for repayment of the claim was issued a demand notice.

(2) The claim must be legally enforceable.

(a) The claim shall be properly established by electronic records or paper documents held by the county agency in accordance with section 5107.76 of the Revised Code and rule 5101:1-23-70 of the Administrative Code. The evidence shall include verification that the assistance group was notified of hearing rights on the claim as described in rule 5101:6-2-20 of the Administrative Code.

(b) The claim has not been discharged in bankruptcy for the referred individual, nor is there a



bankruptcy stay in effect for the referred individual.

(3) The claim must be at least twenty-five dollars or more.

(4) The date of the initial demand letter must be within ten years of the date on which the debt is certified to the state tax refund offset program. Exceptions to the ten year limitation include claims reduced to final court judgments and claims due to an individual's intentional violation of the program requirements as described in rule 5101:1-23-75 of the Administrative Code.

(C) When is a claim not referred to the state tax refund offset program?

(1) The claim is not past due;

(2) The liable adult(s) is eligible for an Ohio works first grant reduction. Even when the claim is being repaid through a grant reduction of the assistance group's benefits, any other liable adult who is not currently in receipt of Ohio works first benefits may be referred to the Ohio department of taxation for offset;

(3) A state hearing decision on the issue of the claim is pending;

(4) The thirty days allowed for the assistance group's response to a notice of overpayment has not yet expired;

(5) An individual is making payments pursuant to an agreed upon schedule of payments or the claim has been paid in full; or

(6) There is another documented reason that the claim is not past due.

(D) Who is liable for a claim?

A liable individual is one who was an adult or minor head of household during the time period of the claim. Each claim is submitted in the name of one or more liable individuals.



(E) How is the debtor notified of the offset?

ODJFS mails an automated thirty day notice of intent to offset to the address provided by the Ohio department of taxation. The notice informs the debtor that agency records document:

- (1) The individual is liable for a specified unpaid claim balance amount;
- (2) Previous notification about the claim was sent;
- (3) Prior collection efforts have been made;
- (4) The claim is past due and legally enforceable;
- (5) The county agency will refer the claim to the state tax refund offset program unless the debtor;
 - (a) Pays the balance within thirty days of the date of the notice when the balance is five hundred dollars or less; or
 - (b) Pays five hundred dollars within thirty days of the date of the notice (when the debt is greater than five hundred dollars) and makes other acceptable repayment arrangements for the balance due;
- (6) Instructions about how to pay the claim;
- (7) County contact information; and
- (8) The right to request a review concerning the intent to refer the debt for offset.

(F) What are the responsibilities of the county agency?

Each county agency shall:

- (1) Maintain a toll-free telephone service available during the county agency's regular business hours. The toll-free telephone number and the mailing address of the county agency are printed on all



state tax refund offset program notices to debtors.

(2) Verify the debtor's identifying information, access the claim case information, and discuss the case with the debtor when the debtor receives the thirty day notice of intent to offset and contacts the agency.

(3) Inform the debtor of repayment arrangements acceptable to prevent offset as specified in paragraph (I) of this rule.

(G) What are the requirements for an individual to request a review of the debt referred?

The request for review shall:

(1) Be received at the county agency in writing no later than thirty days after the mailing date of the notice of intent;

(2) Include evidence or documentation to support the debtor's belief that the claim is not past due or is not legally enforceable;

(3) Contain the debtor's social security number; and

(4) Include a statement, signed by the debtor, authorizing another person to represent the debtor when someone other than the debtor makes a request for review on behalf of the debtor.

(H) How is a request for review handled?

(1) Within fifteen days of the debtor's request for review the county agency shall notify the debtor in writing of the following:

(a) Continued intent to refer the claim for offset when the county agency determines that the claim is past-due or is legally enforceable;

(b) The debtor's right to have ODJFS review the county agency's decision; and



(c) Instructions and time limits for requesting the review by ODJFS.

(2) When the county agency determines that the claim is not past-due or is not legally enforceable, the county agency shall notify the debtor in writing that the claim will not be referred for offset, and take any action necessary to establish or recover the claim or other action as may be required.

(I) What are the responsibilities of ODJFS when a request for review is made?

(1) ODJFS shall not refer for offset any claim for which a review has been requested when:

(a) The county agency or ODJFS determines that the claim is not past-due or is not legally enforceable; or

(b) The county agency does not complete a requested review or does not notify the debtor of the results of that review.

(2) ODJFS shall notify the county agency and the debtor of its decision concerning any debtor's request for review. When the review decision is that the county agency:

(a) Correctly determined the claim is past-due and legally enforceable, ODJFS shall notify the debtor that any further appeal must be made through the courts.

(b) Incorrectly determined the claim is past-due and legally enforceable, ODJFS also must notify the county agency about any corrective action which must be taken with respect to the claim.

(3) When the debtor makes an acceptable repayment arrangement with the county agency, the claim is not referred for offset.

(J) What is an acceptable repayment arrangement?

(1) When the claim(s) balance is five-hundred dollars or less, the balance must be paid in full within thirty days of the mailing date of the thirty day offset notice.



(2) When the claim(s) balance amount is more than five-hundred dollars, a minimum payment of five-hundred dollars and a signed, written agreement to repay the balance must be received by the county agency within thirty days of the mailing date of the thirty day offset notice. The repayment agreement must be acceptable to the county agency.

(3) Any payment the county agency receives in response to a debtor's receipt of a thirty day state tax refund offset program notice of intent to refer a claim for offset shall be credited to the claim(s) which is to be referred for offset.

(4) The county agency shall enter the repayment agreement and any additional information into the statewide automated eligibility system on the day it is received.

(K) What happens when a claim does not meet the criteria for referral?

(1) When the county agency or ODJFS staff becomes aware that a claim referred for offset does not meet all criteria for referral, ODJFS shall cancel the referral.

(2) When the reason for cancellation of the referral is not because of a repayment arrangement being established as one of the changes listed in paragraph (I) of this rule, the county agency shall inform ODJFS of the inappropriate referral with the JFS 07430, "Offset Programs Referral Cancellation/Refund Request."

(3) The county agency shall submit the JFS 07430 by facsimile or e-mail to ODJFS within one business day from the date of the determination that the referral must be canceled.

(4) ODJFS shall update the statewide automated eligibility system upon receipt of the JFS 07430 and the information will be transmitted to the Ohio department of taxation in the next weekly update file.

(L) What happens when a claim is referred?

After the certification of a debt:



- (1) ODJFS sends weekly updates of account information to the Ohio department of taxation;
 - (2) Changes entered into the statewide automated eligibility system, such as payments received, repayment arrangements, decrease in claim balance and reopening of the case will automatically update referral data already sent to the Ohio department of taxation;
 - (3) When the offset occurs, ODJFS credits the applicable claim(s) and updates the statewide automated eligibility system accordingly, and ensures that the affected individual is notified of the offset in writing; and
 - (4) Upon receiving notice of offset, ODJFS shall refund any incorrect collection resulting from the offset. ODJFS must also notify the individual of the refund amount in writing.
- (M) Must the state tax refund offset program information be safeguarded?

ODJFS and the county agency shall safeguard Ohio department of taxation information from unauthorized access and use. This information includes printed reports and on-line statewide automated eligibility system information provided to authorized personnel. This information may be used only as needed for the administration of the state tax refund offset program, and shall be protected from overt and inadvertent disclosure.