

210-RICR-10-00-6

TITLE 210 - EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

CHAPTER 10 - EOHHS GENERAL PROVISIONS

SUBCHAPTER 00 - GENERAL PROVISIONS

Part 6 - Collection of Overpayments Via State Tax Refund Offset

6.1 Legal authority

In accordance with R.I. Gen. Laws §§ 44-30.1-1, 44-30.1-3, 44-30.1-4 and 44-30.1-8 entitled, "Setoff of Refund of Personal Income Tax", the Executive Office of Health and Human Services (EOHHS) is authorized to recover Medicaid benefit overpayments and cost share arrearages through the offset of the individual's state income tax refund.

6.2 Definitions

A. For the purposes of this section, the following definitions apply:

1. "Medicaid benefit overpayment" means any amount paid to or on behalf of a Medicaid beneficiary for a Medicaid benefit to which the beneficiary was not entitled, including but not limited to, an overpayment of a Rlte Share premium.
2. "Medicaid cost share arrearage" means any amount due and owed to EOHHS as a result of a Medicaid beneficiary's failure to pay their cost share obligation, including any amount due for a cost sharing obligation or Medicaid premium obligation, imposed in accordance with R.I. Gen. Laws Chapter 40-8.4.

6.3 Criteria for Claims Referred for Setoff

A. The Medicaid claim referred for setoff must comply with the State Personal Income Tax Refund Offset procedure (as below).

B. The Medicaid claim must be:

1. Established by court order, by administrative hearing conducted by EOHHS, or by written agreement between the EOHHS and the individual:

- a. Greater than or equal to the minimum amount required for submission for setoff by the R.I. Division of Taxation. The Division of Taxation shall, from time to time, determine the minimum amount of claim to which the setoff procedure may be applied.
 - b. Submitted in the name of one individual or must be reduced by any amount submitted as a separate claim for other individuals who are jointly or severally liable for the claim; and
 - c. Not involved in a bankruptcy stay or discharged in bankruptcy.
- C. In addition, EOHHS must notify the individual of the intended action prior to offset and of her or his appeal rights.

6.4 Setoff Procedures and Notification of Debtor

- A. EOHHS will notify the individual of its intent to refer a claim to the R.I. Division of Taxation for offset and provide the individual with thirty (30) days to appeal the intended referral by presenting evidence that all or part of the claim is not legally enforceable. The thirty (30) day notice ("pre-offset notice") shall contain the following information:
 - 1. The amount of the claim(s);
 - 2. That the claim is legally enforceable;
 - 3. The individual's Medicaid Case Identifier;
 - 4. That the claim(s) is to be referred to the R.I. Division of Taxation for offset unless the claim is paid in full within thirty (30) days of the date of the letter;
 - 5. Instructions about how to pay the claim(s), and the address and telephone number to call to discuss the claim and the intended intercept.
 - 6. That the individual has the right to appeal the offset. The notice will advise:
 - a. That the individual is entitled to an administrative hearing to contest the setoff. The appeal request must be in writing and must be received by EOHHS not later than thirty (30) days after the date of the notice.
 - b. The general nature of the potential defenses available to the debtor;

- c. The rights of non-obligated spouses with respect to income tax refunds in the event a joint return is filed;
 - d. The individual's right to judicial review of the administrative hearing decision.
- B. The notice must also state that a claim may not be referred for offset where a bankruptcy stay is in effect or if the claim has been discharged in bankruptcy.

6.5 Transfer of Funds by the R.I. Division of Taxation

- A. At the time of the transfer of funds to EOHHS, the R.I. Division of Taxation shall notify the debtor that the transfer has been made.
- B. The notice shall state the name of the debtor, the amount of Medicaid benefit overpayment or cost share arrearage being claimed, the amount of the refund in excess of the amount claimed, if any, and that the transfer of funds to EOHHS was made.
- C. In the case of a joint refund, the R.I. Division of Taxation notice shall also state the name of a taxpayer-spouse named in the return, if any, against whom no Medicaid benefit overpayment or cost share arrearage is claimed, the opportunity to request that the refund be divided between the spouses by filing an amended income tax return showing each spouse's share of the tax and the contribution to the overpayment of tax resulting in the refund.
- D. Upon receipt of funds transferred from the R.I. Division of Taxation, EOHHS deposits and holds the funds in an escrow account until final determination of setoff. Upon final determination of the amount of the claim to be set-off by:
 - 1. default for failure to apply for an administrative hearing, or by
 - 2. decision of the administrative hearing officer, EOHHS shall remove from the account of the claim payment from the escrow account and credit the amount to the debtor's obligation. The pendency of judicial proceedings to review the administrative decision shall not stay nor delay the setoff, transfer, and disbursement of the tax refund in question.
- E. With respect to setoff for Medicaid benefit overpayments and cost share arrearages, the R.I. Division of Taxation shall provide the debtor's address and social security number to EOHHS. The information obtained by EOHHS through the R.I. Division of Taxation retains its confidentiality and is only used by EOHHS in pursuit of its Medicaid benefit overpayments and cost share arrearages collection duties and practices, and any employee or prior employee of EOHHS who unlawfully discloses that information for any other purpose, except as

specifically authorized by law, is subject to the penalties specified by R.I. Gen. Laws § 44-30-95(c).

6.6 ADMINISTRATIVE HEARINGS

- A. As appropriate, an administrative hearing may be held pursuant to the "Medicaid Code of Administrative Rules, Section #0110, 'Complaints and Appeals'".
- B. The hearing officer must issue her or his decision in writing in accordance with the "Medicaid Code of Administrative Rules, Section #0110, 'Complaints and Appeals'". If the decision is made that the claim does not meet the requirements for offset, EOHHS must take appropriate corrective action.

6.7 Severability

If any provisions of these regulations or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of these regulations which can be given effect, and to this end the provisions of these regulations are declared to be severable.

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PART 6 - Collection of Overpayments via State Tax Refund Offset (formerly
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