

CHAPTER 43

OFFSET OF STATE LOTTERY PRIZES TO SATISFY DEFAULTED FEDERAL AND STATE STUDENT LOANS

Authority

N.J.S.A. 5:9-13.16.

Source and Effective Date

R.1998 d.239, effective May 18, 1998.
See: 30 N.J.R. 1034(a), 30 N.J.R. 1850(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 43, Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans, expires on November 14, 2003. See: 35 N.J.R. 2416(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 17:43-1.1 OSA's responsibility
- 17:43-1.2 Lottery's responsibility
- 17:43-1.3 OTIS' responsibility
- 17:43-1.4 Prize disbursement restriction
- 17:43-1.5 Notice of prize withholding
- 17:43-1.6 Treasury action following notice of prize withholding
- 17:43-1.7 Right to hearing
- 17:43-1.8 Defaulted loan subject to agency judgment
- 17:43-1.9 Transmission of prize offset to OSA
- 17:43-1.10 Notice and disbursement of prize after setoff
- 17:43-1.11 Confidentiality

SUBCHAPTER 1. GENERAL PROVISIONS

17:43-1.1 OSA's responsibility

The Office of Student Assistance (OSA) shall maintain a list of individuals covered by P.L. 1997, c.306. The list shall include the individual's name and social security number, plus the amount of the Federally guaranteed loan balance in default or State student loan balance in default. The list shall be updated at least monthly to show new individuals or obligations and to show payment or satisfaction of amounts outstanding.

17:43-1.2 Lottery's responsibility

The Division of State Lottery (Lottery) shall maintain a list of winners of prizes in amounts in excess of \$1,000. The list shall include the winners' names, addresses, social security numbers and amounts won. The list shall be updated weekly.

17:43-1.3 OTIS' responsibility

On a weekly basis, the Office of Telecommunications and Information Systems (OTIS) shall perform a computer

match of the data on the two lists to ascertain the existence of a social security number match and shall notify both OSA and Lottery of the existence of any such match or of the fact that no matches were found from the given comparison. If matches are found, OTIS shall transmit a list to each agency including the individual's name, address, social security number, lottery prize and student loan balance in default. No lottery prize in excess of \$1,000 shall be disbursed by the Department of the Treasury (Treasury) until results of a match involving that prize payment have been determined. In case of annuity prizes where the first installment has not been paid, the match will be conducted on an expedited basis, directly between OSA and Lottery. If the first installment exceeds the lien, a net check can be given to the winner immediately, with the procedures elaborated under these rules to apply to the amount withheld from immediate distribution.

17:43-1.4 Prize disbursement restriction

Upon receipt of notice from OTIS that a social security number match has been made, neither Lottery nor Treasury shall disburse the lottery prize (except a first annuity installment as described in N.J.A.C. 17:43-1.3) until notified that the hearing procedures set forth in this subchapter have been completed or that no hearing has been timely requested. Lottery prizes of \$5,000 or more shall first be subjected to Federal income tax withholding before any other setoffs, deductions or set asides under these rules. Lottery prizes in excess of \$1,000 shall also be subjected to offset described in N.J.A.C. 17:42 before any setoffs, deductions or set asides under these rules.

17:43-1.5 Notice of prize withholding

Within 14 days of notification by OTIS that a social security number match has been found to exist, OSA shall cause written notice to be sent to the subject of the match by first class mail. Such notice shall inform the individual that the match has been found to exist, that payment of the lottery prize is being withheld, that he or she has the right to make a request, within 14 days of the date of the notice, for a hearing on the debt and the proposed setoff and that, if no such request is timely received, Treasury will transmit the withheld money, up to the amount owed, to OSA.

17:43-1.6 Treasury action following notice of prize withholding

(a) No later than 20 days from the date of the notice to the debtor, OSA shall notify Treasury and Lottery of any request by the debtor for a hearing, of the failure of the debtor to make such request or of the satisfaction of the debt. Such information shall allow Treasury to:

1. Maintain the account on a hold status if a hearing has been requested;

2. Transmit the debt to OSA, where the debtor has not made a timely request for a hearing or where a hearing request is made but subsequently withdrawn; or

3. Release the prize check to the winner if the debt has been satisfied.

(b) Treasury shall extend the hold status of an affected check until a final decision by OSA, in order to accommodate the hearing process, where Treasury has been notified that a hearing has been requested pursuant to N.J.A.C. 17:43-1.7. Following the hearing, N.J.A.C. 17:43-1.9 shall apply. If the request for the hearing is withdrawn, the provisions of (a)2 and 3 above shall apply.

17:43-1.7 Right to hearing

(a) Any person whose lottery prize has been withheld pursuant to P.L. 1997, c.306 may request a hearing by serving a written request on OSA within 14 days of the date of the notice of match described in N.J.A.C. 17:43-1.5. However, if a person is subject to a judgment by OSA on account of a defaulted student loan, N.J.A.C. 17:43-1.8, and not this section, shall apply.

(b) When a debtor makes a timely request for a hearing in a case where OSA is seeking to collect on a defaulted student loan(s), OSA shall conduct an administrative review on the existence or amount of the debt.

(c) If the matter cannot be resolved through administrative review, the matter shall be filed forthwith with the Clerk of the Office of Administrative Law for a contested case hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq. The Office of Administrative Law shall recommend a decision to OSA within 45 days of the closing of the record on the case, in accordance with N.J.S.A. 52:14B-10.

(d) If a debtor disagrees with the final agency decision made by OSA following a contested case hearing, and wishes to appeal that decision, the debtor may appeal to the Appellate Division of the Superior Court of New Jersey within the period established by New Jersey Court Rule 2:4.

17:43-1.8 Defaulted loan subject to agency judgment

If there is a judgment against the debtor in a case where OSA is seeking to collect on a defaulted student loan(s), the debtor wishing to contest the application of lottery prize winnings toward student loan debt must seek relief in the court where judgment was entered. If there is an appeal of that judgment, OSA shall notify Lottery and Treasury within three days of the date of service of such appeal to maintain the account on hold status until the matter is resolved.

17:43-1.9 Transmission of prize offset to OSA

(a) Upon either final determination on the existence or amount of the debt, or upon the debtor's default for failure to make a timely request for review of the asserted setoff, or upon partial payment of the outstanding debt, OSA shall forthwith notify Treasury and Lottery, following which the amounts withheld from distribution, up to the amount owed, shall be transmitted to OSA.

(b) Where judicial review is sought from the final agency decision, OSA shall advise Treasury and Lottery of such appeal within three days of the date of service of the request for judicial review. Upon resolution of judicial review (including any appeal which may be taken) like notice shall be provided by OSA to Treasury and Lottery.

17:43-1.10 Notice and disbursement of prize after setoff

Upon the finalization of setoff through administrative or judicial action, OSA shall notify the debtor in writing of the action and of any outstanding balance remaining due after the setoff. If there is an outstanding prize balance remaining after the setoff, it shall be disbursed by Treasury to the debtor.

17:43-1.11 Confidentiality

Apart from notice to affected individuals and to OSA for purposes of administrative review, personally identifiable information compiled under this chapter regarding any person shall be confidential and shall not be disseminated or used for any purpose other than as set forth in P.L. 1997, c.306 and this chapter.