

CHAPTER 42

OFFSET OF STATE LOTTERY PRIZES TO SATISFY OVERDUE CHILD SUPPORT PAYMENTS AND OVERPAYMENTS IN CERTAIN PUBLIC ASSISTANCE PROGRAMS

Authority

N.J.S.A. 5:9-13.1 through 13.16.

Source and Effective Date

R.2007 d.133, effective April 4, 2007.
See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 42, Offset of State Lottery Prizes to Satisfy Overdue Child Support Payments and Overpayments in Certain Public Assistance Programs, expires on April 4, 2014. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 42, Offset of State Lottery Prizes to Satisfy Overdue Child Support Payments and Overpayments in Certain Public Assistance Programs, was adopted as R.1992 d.337, effective September 8, 1992. See: 24 N.J.R. 2343(b), 24 N.J.R. 3098(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Offset of State Lottery Prizes to Satisfy Overdue Child Support Payments and Overpayments in Certain Public Assistance Programs, was readopted as R.1996 d.507, effective October 2, 1996. See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Chapter 42, Offset of State Lottery Prizes to Satisfy Overdue Child Support Payments and Overpayments in Certain Public Assistance Programs, was readopted as R.2002 d.8, effective December 7, 2001. See: 33 N.J.R. 3423(a), 34 N.J.R. 297(a).

Chapter 42, Offset of State Lottery Prizes to Satisfy Overdue Child Support Payments and Overpayments in Certain Public Assistance Programs, was readopted as R.2007 d.133, effective April 4, 2007. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

17:42-1.1	Other agencies responsibility
17:42-1.2	Lottery's responsibility
17:42-1.3	OIT's responsibility
17:42-1.4	Prize disbursement restriction
17:42-1.5	Notice of prize withholding
17:42-1.6	Lottery action following notice of prize withholding
17:42-1.7	Right to hearing
17:42-1.8	Transmission of prize offset to DHS and DCA
17:42-1.9	Notice and disbursement of prize after setoff
17:42-1.10	Confidentiality

SUBCHAPTER 1. GENERAL PROVISIONS

17:42-1.1 Other agencies responsibility

(a) The Department of Human Services (DHS) shall maintain a list of individuals covered by P.L. 1991, c. 384, as amended by P.L. 1998, c. 1, (N.J.S.A. 5:9-13.1 to 13.9) ex-

cept for the low-income home energy assistance program (LIHEAP). The list shall include the individual's name and social security number, plus the amount of the alleged support arrears or public assistance overpayment. The list shall be updated at least monthly to show new individuals or obligations and to show payment or satisfaction of amounts outstanding.

(b) The Department of Community Affairs as per its designation by Governor Jon S. Corzine in the grant application for the Fiscal Year 2007 Federal block grant from low-income home energy assistance Act as amended (Title 26 of Public Law 97-35, Omnibus Budget Reconciliation Act of 1981 as amended) shall maintain a list of individuals covered by P.L. 1991, c. 384 (N.J.S.A. 5:9-13.1 to 13.9) for overpayments for the low-income home energy assistance program. The list shall be updated at least monthly to show new individuals or obligations and to show payment or satisfaction of amounts outstanding.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted a reference to the Department of Human Services for a reference to the Division of Family Development in the Department of Human Services and added "as amended by P.L. 1998, c.1" at the end of the first sentence.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Section was "Department of Human Service's responsibility". Inserted designation (a); in (a), substituted "c. 384," for "c.384 (N.J.S.A. 5:9-13.1 et seq.);" and "c. 1, (N.J.S.A. 5:9-13.1 to 13.9) except for the low-income home energy assistance program (LIHEAP)" for "c.1."; and added (b).

17:42-1.2 Lottery's responsibility

The Division of the State Lottery (Lottery) shall maintain a list of winners of prizes in amounts in excess of \$600.00. The list shall include the winners' names, addresses, social security numbers and amounts won. The list shall be updated weekly.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted a reference to \$600 for a reference to \$1,000 at the end of the first sentence.

17:42-1.3 OIT's responsibility

On a weekly basis, the Office of Information Technology (OIT) 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 DHS, DCA or both as appropriate 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, OIT shall transmit a list to the appropriate agency or agencies including the individual's name, address, social security number, lottery prize and outstanding arrear-

age or overpayment. No Lottery prize in excess of \$600.00 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 among DHS, DCA and Lottery. If the first installment less the applicable tax withholding exceeds the lien referred to in N.J.S.A. 5:9-13.6, the excess shall be paid to the winner immediately, with the procedures elaborated under these rules to apply to the amount withheld from immediate distribution.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted references to the Office of Information Technology for references to the Office of Telecommunications and Information Systems throughout, substituted references to DHS for references to DFD throughout, substituted a reference to \$600 for a reference to \$1,000 in the third sentence, and rewrote the last sentence.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Substituted "DHS, DCA or both as appropriate" for "both DHS", "the appropriate agency or agencies" for "each agency", and "among DHS, DCA" for "between DHS".

17:42-1.4 Prize disbursement restriction

(a) Upon receipt of notice from OIT that a social security number match has been made, neither Lottery nor Treasury shall disburse the portion of the lottery prize subject to the lien referred to in N.J.S.A. 5:9-13.6 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.

(b) Upon learning of an assignment request, DHS or DCA shall make the determination regarding whether the assignor is a debtor.

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Rewrote the section.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

In (b), inserted "or DCA".

17:42-1.5 Notice of prize withholding

Within 14 days of notification by OIT that a social security number match has been found to exist, DHS or DCA, or both 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 10 business days of the date of the notice, for a hearing on the alleged 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 DHS or DCA, or both.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted "OIT" for "OTIS" and substituted "DHS" for "DFD" in the first sentence, and substituted "DHS" for "DFD or to the Office of Child Support and Paternity Programs in the Department of Human Services (OCSPP) for transmission to the appropriate county probation department" at the end of the last sentence.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Inserted "or DCA, or both" twice.

17:42-1.6 Lottery action following notice of prize withholding

(a) No later than 15 business days from the date of the notice to the alleged debtor, DHS or DCA, or both shall notify Lottery of any request by the alleged debtor for a hearing, of the failure of the debtor to make such request or of the satisfaction of the alleged debt. Receipt of such information shall allow Lottery to:

1. Withhold payment pending the outcome of the hearing if a hearing has been requested;
2. In accordance with N.J.A.C. 17:42-1.8, transmit the alleged debt to DHS or DCA, or both where the alleged 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 payment to the winner if the debt has been satisfied.

(b) Lottery shall extend the hold status of an affected payment until a final decision by DHS or DCA, or both and exhaustion of judicial review or expiration of any right thereto, in order to accommodate the hearing process, where Lottery has been notified that a hearing has been requested pursuant to N.J.A.C. 17:42-1.7. Following the hearing, N.J.A.C. 17:42-1.8 shall apply. If the request for the hearing is withdrawn, the provisions of (a)2 and 3 above shall apply.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Rewrote the section.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Inserted "or DCA, or both" throughout; and in (a)2, substituted "In accordance with N.J.A.C. 17:42-1.8, transmit" for "Transmit".

17:42-1.7 Right to hearing

(a) Any person whose lottery prize has been withheld pursuant to P.L. 1991, c. 384, N.J.S.A. 5:9-13.1 et seq., may request a hearing by serving a written request to DHS or DCA within 10 business days of the date of the notice of match described in N.J.A.C. 17:42-1.5.

(b) When an alleged debtor makes a timely request for a hearing in a case where DHS is seeking to recoup arrears of child support payments, DHS shall notify the appropriate pro-

bation division, which shall render a final agency decision in accordance with the procedure specified in N.J.A.C. 1:1. The issues to be resolved shall be whether the claimed sum asserted is due and owing or there has been a mistake in the identity of the alleged debtor.

(c) If there is a judgment against the alleged debtor in a case where DHS is seeking to recoup an overpayment of Work First New Jersey benefits, which includes General Assistance and Temporary Assistance to Needy Families (TANF), food stamp benefits or where DCA is seeking to recoup an overpayment for low-income home energy assistance benefits, the alleged debtor must seek relief in an appropriate court. If there is no judgment against the alleged debtor, he or she may request 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., through the county welfare agency that issued the benefits or in the case of low-income home energy assistance program (LIHEAP) benefits through the Hearing Coordinator in the Department of Community Affairs, P.O. Box 806, Trenton, NJ 08625-0806.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted references to DHS for references to DFD throughout; rewrote (b); and in (c), inserted a reference to Work First New Jersey benefits and substituted "an appropriate court" for "the court where the judgment was entered" at the end of the first sentence.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

In (a), substituted "c. 384, N.J.S.A. 5:9-13.1 et seq.," for "c.384 (N.J.S.A. 5:9-13.1 et seq.," and inserted "or DCA"; and rewrote (c).

17:42-1.8 Transmission of prize offset to DHS and DCA

(a) Upon either final determination of the debt due and owing and exhaustion of time in which an appeal may be filed, or upon the debtor's default for failure to make timely request for review of the asserted setoff, or upon payment (in whole or in part) of the outstanding debt, DHS and DCA shall forthwith notify Lottery, following which the amounts withheld from distribution, up to the amount owed, shall be transmitted to DHS and DCA.

(b) In cases of multiple or conflicting claims, the priority for apportionment is as follows:

1. Federal Income tax withholding, as required by N.J.A.C. 17:42-1.4;
2. Child support arrearages, as required by N.J.S.A. 5:9-13.2 to 13.6;
3. Federal and State student loan defaults as required by N.J.S.A. 5:9-13.10 to 13.16; and
4. Over payments for Work First New Jersey benefits, which include General Assistance and Temporary Assistance to Needy Families (TANF), food stamp benefits and

low-income home energy assistance (LIHEAP), as required by N.J.S.A. 5:9-13.2 to 13.6.

(c) Under (b) above, unless otherwise provided by law, no preference shall be given in the payment of any claim over any other claim of the same class.

(d) Where judicial review is sought from the administrative decision, DHS or DCA, or both shall advise Lottery of such appeal within three days of receiving notice of the filing of the request for review. Upon resolution of judicial review (including any appeal which may be taken) like notice shall be provided by DHS or DCA, or both to Lottery.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted references to DHS for references to DFD and deleted references to Treasury throughout; and in (b), substituted a reference to administrative decision for a reference to administrative review in the first sentence.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Section was "Transmission of prize offset to DHS". In (a), inserted "and DCA" twice; recodified last sentence of (a) as new (b); rewrote (b); added (c); recodified former (b) as (d); and in (d), inserted "or DCA, or both" twice.

17:42-1.9 Notice and disbursement of prize after setoff

Upon the finalization of setoff through administrative or judicial action, DHS or DCA, or both shall notify the debtor in writing of the action taken 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 with the notice described in this section.

Amended by R.1996 d.507, effective November 4, 1996.

See: 28 N.J.R. 3896(a), 28 N.J.R. 4794(c).

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted a reference to DHS for a reference to DFD in the first sentence.

Amended by R.2007 d.133, effective May 7, 2007.

See: 39 N.J.R. 180(a), 39 N.J.R. 1802(c).

Inserted "or DCA, or both".

17:42-1.10 Confidentiality

Apart from notice to affected individuals and to the Probation Division 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 N.J.S.A. 5:9-13.1 et seq. and this chapter.

Amended by R.1999 d.130, effective April 19, 1999.

See: 30 N.J.R. 3931(a), 31 N.J.R. 266(a), 31 N.J.R. 636(b), 31 N.J.R. 1081(a).

Substituted a reference to the Probation Division for a reference to county probation departments.