

CHAPTER 43

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

Authority

N.J.S.A. 5:9-13.10 through 13.16.

Source and Effective Date

R.2009 d.156, effective May 4, 2009.
See: 40 N.J.R. 6425(a), 41 N.J.R. 2049(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1.c(2), Chapter 43, Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans, expires on October 31, 2016. See: 48 N.J.R. 799(a).

Chapter Historical Note

Chapter 43, Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans, was adopted as R.1998 d.239, effective May 18, 1998. See: 30 N.J.R. 1034(a), 30 N.J.R. 1850(a).

Chapter 43, Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans, was readopted as R.2003 d.432, effective October 7, 2003. See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a). 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, expired on April 5, 2009. See: 40 N.J.R. 6425(a).

Chapter 43, Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans, was adopted as new rules by R.2009 d.156, effective May 4, 2009. See: Source and Effective Date.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 43, Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans, was scheduled to expire on May 4, 2016. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. GENERAL PROVISIONS

17:43-1.1 HESAA's responsibility

The Higher Education Student Assistance Authority (HESAA) 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.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).

Substituted "Higher Education" for "Office of" and "Authority (HESAA)" for "(OSA)" in the first sentence.

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 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 described in N.J.A.C. 17:43-1.1 and 1.2 to ascertain the existence of a social security number match and shall notify both the Higher Education Student Assistance Authority (HESAA) and the Division of State Lottery (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 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 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 HESAA and Lottery. If the first installment exceeds the lien, a net check can be given to the winner immediately along with information concerning the amount withheld from immediate distribution and the procedures which the debtor must follow to request a hearing by HESAA.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).

Rewrote the section.

17:43-1.4 Prize disbursement restriction

Upon receipt of notice from the Office of Information Technology that a social security number match has been made, neither the Division of State Lottery nor the Department of the 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 more than \$5,000 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.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).
Rewrote the section.

17:43-1.5 Notice of prize withholding

Within 14 days of notification by the Office of Information Technology that a social security number match has been found to exist, the Higher Education Student Assistance Authority (HESAA) 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, the Department of the Treasury will transmit the withheld money, up to the amount owed, to HESAA.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).
Rewrote the section.

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, the Higher Education Student Assistance Authority (HESAA) shall notify the Department of the Treasury (Treasury) and the Division of State 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 HESAA, 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 following notification from HESAA that a hearing has been requested pursuant to N.J.A.C. 17:43-1.7 and until a final decision has been rendered by HESAA (including any appeal which may be taken by the debtor). If the request for the hearing is withdrawn, the provisions of (a)2 and 3 above shall apply.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).
Rewrote the section.

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 the Higher Education Student Assistance Authority (HESAA) 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 HESAA on account of a defaulted student loan, N.J.A.C. 17:43-1.8, and not this section, shall apply.

(b) When the debtor makes a timely request for a hearing in a case where HESAA is seeking to collect on a defaulted student loan(s), HESAA 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 HESAA 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 HESAA 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.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).
Substituted "HESAA" for "[OSA]" throughout.

17:43-1.8 Defaulted loan subject to agency judgment

If there is a judgment against the debtor in a case where the Higher Education Student Assistance Authority (HESAA) 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, HESAA shall notify the Division of State Lottery and the Department of the Treasury within three days of the date of service of such appeal to maintain the account on hold status until the matter is resolved.

Amended by R.2003 d.432, effective November 3, 2003.
See: 35 N.J.R. 2416(a), 35 N.J.R. 5161(a).
Rewrote the section.

17:43-1.9 Transmission of prize offset to HESAA

(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, the Higher Education Student Assistance Authority (HESAA) shall forthwith notify the Department of the Treasury (Treasury) and the Division of State Lottery (Lottery), following which the amounts withheld from distribution, up to the amount owed, shall be transmitted to HESAA.

(b) Where judicial review is sought from the final agency decision, HESAA 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