

§ 303.102 Collection of overdue support by State income tax refund offset.

(a) *Overdue support qualifying for offset.* Overdue support qualifies for State income tax refund offset if:

(1) There has been an assignment of the support obligation under section 408(a)(3) of the Act or section 471(a)(17) of the Act or the IV-D agency is providing services under § 302.33 of this chapter, and

(2) The State does not determine, using guidelines it must develop which are generally available to the public, that the case is inappropriate for application of this procedure.

(b) *Accuracy of amounts referred for offset.* The IV-D agency must establish procedures to ensure that:

(1) Amounts referred for offset have been verified and are accurate; and

(2) The appropriate State office or agency is notified of any significant reductions in (including an elimination of) an amount referred for collection by State income tax refund offset.

(c) *Procedures for contesting offset and for reimbursing excess amounts offset.* (1) The State must establish procedures, which are in full compliance with the State's procedural due process requirements, for a noncustodial parent to use to contest the referral of overdue support for State income tax refund offset.

(2) If the offset amount is found to be in error or to exceed the amount of overdue support, the State IV-D agency must take steps to refund the excess amount in accordance with procedures that include a mechanism for promptly reimbursing the noncustodial parent.

(3) The State must establish procedures for ensuring that in the event of a joint return, the noncustodial parent's spouse can apply for a share of the refund, if appropriate, in accordance with State law.

(d) *Notice to custodial parent.* The IV-D agency must inform individuals receiving services under § 302.33 of this chapter, in advance that, for cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, amounts offset will be distributed under § 302.51(c) of this chapter.

(e) *Advance notice to noncustodial parent.* The State must send a written advance notice to inform the noncustodial parent of the referral for State income tax refund offset and of the opportunity to contest the referral.

(f) *Fee for certain cases.* The State IV-D agency may charge an individual who is receiving services under § 302.33(a)(1) (i) or (iii) of this chapter a reasonable fee to cover the cost of collecting past-due support using State tax refund offset. The State must inform the individual in advance of the amount of any fee charged.

(g) Distribution of collections. (1) The State must distribute collections received as a result of State income tax refund offset:

(i) In accordance with section 457 of the Act and §§ 302.51 and 302.52 of this chapter; and

(ii) For cases in which medical support rights have been assigned under 42 CFR 433.146, and amounts are collected which represent specific dollar amounts designated in the support order for medical purposes, under § 302.51(c) of this chapter.

(2) If the amount collected is in excess of the amounts required to be distributed under paragraph (g)(1) of this section, the IV-D agency must repay the excess to the noncustodial parent whose State income tax refund was offset within a reasonable period in accordance with State law.

(3) The State must credit amounts offset on individual payment records.

(h) *Information to the IV-D agency.* The State agency responsible for processing the State tax refund offset must notify the State IV-D agency of the noncustodial parent's home address and social security number or numbers. The State IV-D agency must provide this information to any other State involved in enforcing the support order.

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