

Press Advisory / Press Release with Complete text of the announcement as it appears in the New Jersey Register, 39 NJR 1(2)

The Office of the State Treasurer is proposing for readoption with amendments rules (Proposed Rule No. PRN 2007-13) regarding the Lottery Prize Offset for Child Support and Public Assistance Payments in N.J.A.C. 17:42. The notice for readoption will be published on the **January 16, 2007** in **NEW JERSEY REGISTER, 39 NJR 1 (2)**. In order to provide ample notification, the public comment period will be extended to 60 days since the readoption with amendments of this chapter are not listed in the agency calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Written comments on the proposed readoption with amendments may be submitted **by March 17, 2007** to:

**William Jourdain, Acting Executive Director
Division of State Lottery
P.O. Box 041
One Lawrence Park Complex
Trenton, NJ 08625-0041**

Pursuant to N.J.S.A 52:14B-5.1c, Lottery Prize Offset for Child Support and Public Assistance Payments rules(N.J.A.C. 17:42) are scheduled to expire on June 5, 2007. The Office of the State Treasurer has reviewed the rules with amendments and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The notice in the New Jersey Register indicates that the rules proposed for readoption with amendments will enhance the ability of the State to identify and recover debts owed for child support or for overpayments in, Work First New Jersey, which includes General Assistance and Temporary Assistance to Needy Families (TANF), food stamps or low-income home energy assistance program. The recovery of child support arrears will have a significant social impact on the families who are legally entitled to and who are economically dependent on child support payments. In the case of the repayments to public assistance programs, the additional funds will enable the State to provide public assistance support to more clients.

Continuing these rules will allow this program to recover child support debts and overpayments in public assistance programs in future years. The program will provide children support they are legally entitled to and possibly reduce the cost of welfare to children and families abandoned by their parents. Readopting the rules will assist in making persons responsible for their financial and familial obligations.

Over \$2.35 billion is owed in child support. In the 15 years since the implementation of the Public Laws of 1991, c. 384 that established the Lottery Prize Offset Program, there have been 2,672 garnishments totaling almost \$5 million in recovered child support payments and overpayments in public assistance programs. This is money that the State would not have otherwise recovered for families who were legally entitled to it or for supporting additional clients needing public assistance.

The Office of the State Treasurer proposes to amend the chapter by making a language change to the program names for which offsets occur to reflect a change in responsibility to the Department of Community Affairs (DCA) for the administration of the

low income home energy assistance program (LIHEAP) and memorialize the handling of duplicate and conflicting claims. This change of responsibility for low-income home energy assistance program (LIHEAP) is a result of Governor Jon S. Corzine's designation of DCA in the grant application for the Fiscal Year 2007 Federal block grant from LIHEA Act as amended (Title 26 of Public Law 97-35, Omnibus Budget Reconciliation Act of 1981, as amended) as the administrative entity for LIHEAP. There is no change in the legislative intent, but an attempt to have the rules reflect name changes in the programs affected and organizational changes in responsibility and procedures to handle duplicate and conflicting claims.

N.J.A.C. 17:42 implements the provisions of N.J.S.A. 5:9-13.1 to 13.16, which provides for an offset against State Lottery prizes in excess of \$600.00 for overdue child support payments and overpayments in certain public assistance programs.

The current rules provide for a match of lists of winners of lottery prizes in excess of \$600.00 with lists of individuals who are in arrears in child support payments or who received an overpayment in the programs Work First New Jersey, which includes General Assistance and Temporary Assistance to Needy Families (TANF), food stamps or low-income home energy assistance program. The match has been based on lists maintained by the Division of State Lottery in the Department of Treasury and the Department of Human Services (DHS) and the Department of Community Affairs. No lottery prize in excess of \$600.00 is disbursed until a comparison has been made and a resolution of the debt is satisfied.

In the event of a match, DHS, DCA or both are required to notify the Lottery winner that the payment of the prize is being withheld and that the individual may request a hearing on the alleged debt. If the individual does not request a hearing, the debt will be paid prior to the disbursement of the remainder of the lottery prize. If the individual does request a hearing, the resolution of the hearing process will determine whether the lottery prize will be applied to the debt.

The chapter is divided into ten sections. A description of each section is contained in the notice.

A complete copy of the notice can be found in the *New Jersey Register, 39 NJR 1(2)* and the full text of the current rule may be found in the New Jersey Administrative Code at N.J.A.C. 17:42 available in the reference section of most local libraries and on the Lottery website <http://www.state.nj.us/lottery>. A complete copy of the proposed readoption with amendments notice can also be found on the Lottery website <http://www.state.nj.us/lottery> and on the Treasury website <http://www.state.nj.us/treasury> or by calling the New Jersey Division of State Lottery at 609-599-5875.

The text of the announcement as it appears in ***the New Jersey Register, 39 NJR 1(2)*** is as follows:

TREASURY-GENERAL
OFFICE OF THE STATE TREASURER

Lottery Prize Offset for Child Support and Public Assistance Payments

Proposed Readoption with Amendments: N.J.A.C. 17:42

Authorized By: Bradley Abelow, State Treasurer.

Authority: N.J.S.A. 5:9-13.1 to 13.16.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-13

Submit comments by March 17, 2007 to:

William Jourdain, Acting Executive Director
Division of State Lottery
PO Box 041
One Lawrence Park Complex
Trenton, NJ 08625-0041

The agency proposal follows:

Summary

In order to provide ample notification, the public comment period will be extended to 60 days, since the proposed readoption with amendments are not listed in the agency calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Pursuant to N.J.S.A. 52:14B-5.1c, N.J.A.C. 17:42 is to expire on June 5, 2007. The Office of the State Treasurer has reviewed the rules and has determined them to be necessary, reasonable and proper for the purposes for which they were originally promulgated, as required by Executive Order No. 66 (1978).

The Office of State Treasurer proposes to amend the chapter by making a language change to the program names for which offsets occur, to reflect a change in responsibility to the Department of Community Affairs (DCA) for the administration of the low income energy assistance program (LIHEAP) and memorialize the handling of duplicate and conflicting claims. This change of responsibility for LIHEA is a result of Governor Jon S. Corzine's designation of DCA in the grant application for the Fiscal Year 2007 Federal block grant from LIHEA Act as amended (Title 26 of Public Law 97-35, Omnibus Budget Reconciliation Act of 1981, as amended) as the administrative entity for LIHEAP. There is no change in the legislative intent, but an attempt to have the rules reflect name changes in the programs affected and organizational changes in responsibility and procedures to handle duplicate and conflicting claims.

N.J.A.C. 17:42 implements the provisions of N.J.S.A. 5:9-13.1 to 13.16, which provides for an offset against State Lottery prizes in excess of \$ 600.00 for overdue child support payments and overpayments in certain public assistance programs.

The current rules provide for a match of lists of winners of lottery prizes in excess of \$ 600.00 with lists of individuals who are in arrears in child support payments or who received an overpayment in the programs of Work First New Jersey, which includes General Assistance and Temporary Assistance to Needy Families (TANF), food stamps or low-income home energy assistance program. The match has been based on lists

maintained by the Division of State Lottery in the Department of Treasury, the Department of Human Services (DHS) and the Department of Community Affairs. No lottery prize in excess of \$ 600.00 is disbursed until a comparison has been made and a resolution of the debt is satisfied.

In the event of a match, DHS, DCA or both are required to notify the Lottery winner that the payment of the prize is being withheld and that the individual may request a hearing on the alleged debt. If the individual does not request a hearing, the debt will be paid prior to the disbursement of the remainder of the lottery prize. If the individual does request a hearing, the resolution of the hearing process will determine whether the lottery prize will be applied to the debt.

The chapter is divided into 10 sections. N.J.A.C. 17:42-1.1 defines the responsibility of DHS and/or DCA to maintain a list of individuals covered by N.J.S.A. 5:9-13.1 to 13.16 as amended by P.L. 1995, c. 333 and P.L. 1998, c. 1. The rule defines the kind of information that the list should include: name, social security number, and amount of the alleged child support arrears and public assistance overpayment and the frequency for updating the information. An amendment has been proposed for this section to reflect the organizational change in responsibility a result of Governor Jon S. Corzine's designation of DCA in the grant application for the Fiscal Year 2007 Federal block grant from LIHEA Act as amended (Title 26 of Public Law 97-35, Omnibus Budget Reconciliation Act of 1981 as amended) as the administrative entity for LIHEA.

N.J.A.C. 17:42-1.2 defines the Division of State Lottery's responsibility to maintain a list of winners of prizes in excess of \$ 600.00. This list should include the winners' names, addresses, social security numbers and amounts won. The rule requires that this list be updated weekly.

N.J.A.C. 17:42-1.3 defines the Office of Information Technology's (OIT) responsibility to perform a computer match of the data from lists provided by the Lottery, the DHS and DCA. The rule outlines the procedures if a match occurs and the requirement that Treasury will disburse no Lottery prize in excess of \$ 600.00 until the nature of the match has been determined. An amendment has been proposed for this section to reference DCA responsibility for the LIHEAP and how the match information is shared with the appropriate entity.

N.J.A.C. 17:42-1.4 defines the restriction for disbursement of the attached Lottery prize until the hearing procedures to appeal the withholding of the alleged support arrears public assistance overpayment has occurred. The rule also stipulates that for Lottery prizes of \$5,000 or more, the payment of Federal income tax shall take precedence over other setoffs, deductions, or set-asides as set forth under these rules. With respect to an assignment request, the DHS, DCA or both, will make the determination if the assignor is a debtor. An amendment has been proposed for this section to reference DCA responsibility for the LIHEAP.

N.J.A.C. 17:42-1.5 stipulates the process of notification to the individual that a match exists. Notification must occur within 14 days and the individual has 10 business days of the date of the notice, to make a request for a hearing. In the event that there is no hearing, Treasury will transmit the withheld money to the appropriate division within the Department of Human Services and/or Department of Community Affairs. An amendment has been proposed for this section to reference DCA responsibility for the LIHEAP.

N.J.A.C. 17:42-1.6 defines Treasury action following the notice of prize withholding. DHS and DCA each have 15 business days to notify Treasury and the Lottery of the request for a hearing by the alleged debtor or the failure to do so. The rule authorizes Treasury to take action depending on the nature of the notification. An amendment has been proposed for this section to reference DCA responsibility for the LIHEAP.

N.J.A.C. 17:42-1.7 establishes the right to a hearing through a written request within 10 business days of the date of the notice of the match of the social security numbers for any person whose Lottery prize had been withheld pursuant to N.J.S.A. 5:9-13.1 to 13.16. The section requires DHS to notify the appropriate probation division. If there is a judgment against the alleged debtor for an overpayment by DHS or DCA, the alleged debtor must seek relief in an appropriate court. If there is no judgment, the alleged debtor may request a contested case hearing pursuant to the Administrative Procedures Act, through the county welfare agency that issued the benefits or in the case of overpayments from the low income home energy assistance program, through the Department of Community Affairs, Hearing Coordinator, P.O. Box 806, Trenton, NJ 08625-0806. An amendment has been proposed for N.J.A.C. 17:42-1.7(c) to delete the reference to Aid to Families with Dependent Children which no longer exists by that name and to explain the programs in Work First New Jersey, which include General Assistance and Temporary Assistance to Needy Families, and to reference DCA's responsibility for the LIHEAP.

N.J.A.C. 17:42-1.8 defines the transmission of the prize offset to the DHS or DCA. When the final determination is made by DHS or DCA or judicial review is sought or resolved, DHS or DCA will provide the determination to Treasury and Lottery who will transmit the appropriate amounts to DHS or DCA or both will also advise Treasury and Lottery of any administrative decision or appeal within three days upon receiving notice of the filing and upon resolution of the appeal. An amendment has been proposed for this section to reference DCA's responsibility for the LIHEAP. In addition, another amendment has been proposed to memorialize internal procedures in DHS and the Department of Community Affairs for the apportionment of multiple or conflicting claims. The priority for apportionment is as follows: Federal Income tax withholding as required in N.J.A.C.17:42-1.4; child support arrearages as required in N.J.S.A. 5:9-13.2 to 13.6; Federal and State student loan defaults as required by N.J.S.A. 5:9-13.10 to 13.16; and overpayments 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 as required by N.J.S.A. 5:9-13.2 to 13.6. Also this section adds a requirement that unless otherwise provided by law, no preference shall be given in the payment of any claim over any other claim of the same class.

N.J.A.C. 17:42-1.9 provides for the notification and disbursement of the prize after setoff. The section requires DHS and/or DCA to notify the debtor in writing of the action taken and the status of any balance after the setoff. This section requires that any remaining prize balance shall be sent to the debtor. An amendment has been proposed for this section to reference DCA responsibility for the LIHEAP.

N.J.A.C. 17:42-1.10 sets out the confidentiality of personally identifiable, information compiled under this chapter and N.J.S.A. 5:9-13.1 to 13.16.

Social Impact

The rules proposed for readoption with amendments will enhance the ability of the State to identify and recover debts owed for child support or for overpayments in Work First New Jersey which includes General Assistance and Temporary Assistance to Needy Families, food stamps and low-income home energy assistance benefits. The recovery of child support arrears will have a significant social impact on the families who are legally entitled to, and who are economically dependent on, child support payments. In the case of the repayments to public assistance programs, the additional funds will enable the State to provide public assistance support to more clients.

Continuing these rules will allow this program to recover child support debts and overpayments in public assistance programs in future years. The program will provide children support they are legally entitled to and possibly reduce the cost of welfare to children and families abandoned by their parents. Readopting the rules will assist in making persons responsible for their financial and familial obligations.

Economic Impact

The rules proposed for readoption with amendments will have a positive economic effect. They will benefit the economic condition of the State's families who receive payments for past-due child support and will provide additional funds for the State public assistance programs. Over \$2.35 billion is owed in child support arrearages. In addition, this offset allows for the recoupment of overpayments in public assistance programs in DHS and low-income home energy assistance program administered by DCA. In the 15 years since the implementation of the P.L. 1991, c. 384, there have been 2,672 garnishments totaling almost \$5 million in recovered child support payments and overpayments in public assistance programs. This is money that the State would not have otherwise recovered for families who were legally entitled to it, or for supporting additional clients needing public assistance.

The operating costs for the Division of State Lottery and DHS and/or DCA will continue with no need for additional staff. Lottery winners whose prizes are subject to the offset will have their prizes reduced by the offset amount.

Federal Standards Statement

N.J.A.C. 17:42-1.4 contains a stipulation that for Lottery prizes of \$5,000 or more, Federal income tax withholding will take precedence over any other setoffs, deductions or set-asides under these rules. This precedence for Federal income tax withholding will continue with the readoption of the rules as required by section 1942 of the Energy Policy Act, which amends the Internal Revenue Code 26 U.S.C. §3402(q). There are no other Federal requirements or standards applicable to the subject matter of these rules.

Jobs Impact

The rules proposed for readoption with amendments will not result in the creation of new jobs or the loss of existing jobs.

Agriculture Industry Impact

The rules proposed for readoption with amendments will not have an impact on the agriculture industry.

Regulatory Flexibility Statement

The rules proposed for re-adoption with amendments do not impose reporting, recordkeeping or the compliance requirements on small businesses. The rules govern only the administrative operations of State agencies and impact only individuals who have won lottery prizes in excess of \$600.00. Therefore, a regulatory flexibility analysis is not required pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 to 24.

Smart Growth Impact

The Office of State Treasurer anticipates that the rules proposed for re-adoption and amendments will have no impact on the achievement of smart growth in New Jersey or on the implementation of the New Jersey State Development and Redevelopment Plan.

Full text of the rules proposed for re-adoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:42.

Full text of the proposed amendments follows (additions indicated in boldface **thus**, deletions indicated in brackets [thus]):

17:42-1.1 [Department of Human Services'] **Other agencies** responsibility

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

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 [both] 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 [each] **the appropriate agency or agencies** including the individual's name, address, social security number, lottery prize and outstanding arrearage 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 [between] **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.

17:42-1.4 Prize disbursement restriction

- (a) (No change.)
- (b) Upon learning of an assignment request, DHS **or DCA** shall make the determination regarding whether the assignor is a debtor.

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**.

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. (No change.)
2. [Transmit] **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. (No change.)

(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.

17:42-1.7 Right to hearing

(a) Any person whose lottery prize has been withheld pursuant to P.L. 1991, [c. 384] **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) (No change.)

(c) If there is a judgment against the alleged debtor in a case where DHS is seeking to recoup an overpayment of [Aid to Families with Dependent Children or] 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 [which] **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.

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, [DHS will provide internal dispute resolution or apportionment according to its own procedures.] **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.

[(b)] **(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.

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.