



Department of  
Job and Family Services

John R. Kasich, Governor  
Michael B. Colbert, Director

**Office of Family Assistance Letter # 109**  
**Office of Fiscal and Monitoring Services**  
December 23, 2011

TO: Directors, County Departments of Job and Family Services

FROM: Trudie J. Bormann, Deputy Director  
Office of Family Assistance

Edna Frezgi, Chief Fiscal Officer  
Office of Fiscal and Monitoring Services

SUBJECT: **Food and Cash Assistance Overpayments Clarification**

Due to recent discussions regarding cash and food assistance overpayment collections, we are providing county agencies with information to clarify when and how overpayment claims are to be collected.

**Background**

The 2008 Farm Bill included a provision that eliminated the 10 year limitation on referral of outstanding federal debts to the Treasury Offset Program. In 2009, the USDA Food and Nutrition Services (FNS) issued guidance to states with respect to the Supplemental Nutrition Assistance Program (SNAP) mandating that states remove the language about the 10 year limitation on their Treasury Offset Program referral notices.

**Cash and Food Assistance Rules**

On April 15, 2010 rule 5101:4-8-30, of the Ohio Administrative Code (OAC) ,“Food Assistance: Treasury Offset Program,” was amended to comply with the USDA FNS guidance to remove the 10 year limitation on referring outstanding debts to the Treasury Offset Program. In January 2011, OAC 5101:1-1-90 was amended to remove the language imposing a 10 year limitation on cash assistance claims being pursued for collection under the State Tax Offset Program in order to align the process for the two programs.

As a result of questions and concerns raised, Action Change Transmittal Letter 252, effective November 30, 2011, re-established the 10 year limitation on collection of cash assistance debts through the State Tax Offset Program.

On December 21, 2011, Food Assistance Change Transmittal Letter 46 was issued to further clarify the status of food assistance overpayment claims established prior to January 1, 2000.

30 East Broad Street  
Columbus, Ohio 43215  
jfs.ohio.gov

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OAC 5101:4-8-19 states the county agency must terminate and write off the claims that are delinquent for more than 3 years unless they are to be collected under the Treasury Offset Program. Federal regulations governing referrals to the Treasury Offset Program were revised effective January 1, 2010. Under previous policy, claims older than 10 years could not be collected under the Treasury Offset Program; these claims were to be terminated and written off, and hence are not outstanding debts. Therefore, non-fraud claims established prior to January 1, 2000 will not be referred to the Treasury Offset Program as they are not considered outstanding debts. Delinquent claims before January 1, 2000 should be terminated and written off. Claims established after January 1, 2000 would fall under the new federal policy and can always be considered outstanding debts; thus they may be referred to the Treasury Offset Program.

### **Questions and Answers**

The following are additional questions and answers about food and cash assistance overpayment claims:

#### **Cash Assistance**

##### **Will there be collection on non-fraud cash assistance debts?**

Action Change Transmittal Letter 252, effective November 30, 2011, only re-established the 10 year limitation on collection of cash assistance debts through the State Tax Offset Program. Recovery of Ohio Works First erroneous payments continues to be required by Ohio Revised Code (ORC) 5107.76 and OAC. Recovery of overpayments occurring prior to July 1, 1998 is governed by OAC 5101:1-23-70 and 5101:1-23-70.1. Current policy allows county departments of job and family services to decide whether to collect on cash assistance overpayments caused by agency error which occurred prior to October 1, 1997, but were discovered after July 1, 1998.

##### **Will there be collection on non-fraud cash assistance debts beyond 10 years?**

While the claims will not be referred to the State Tax Offset Program, the rules which apply to cash assistance overpayment collection are determined by the date of discovery of the overpayment. Recovery of overpayments occurring prior to July 1, 1998 is governed by OAC 5101:1-23-70 and 5101:1-23-70.1. Furthermore, ORC Section 5107.76 requires each county department of job and family services to take action to recover Ohio Works First erroneous payments.

##### **Will non-fraud cash assistance debts over 10 years old be terminated and written off?**

The only exception to recovery of erroneous payments is with respect to rules the Ohio Department of Job and Family Services (ODJFS) may adopt pursuant to a threshold below which recovery is not required (ORC Section 5107.05(C))

ODJFS does not currently have the ability under the current Revised Code to adopt a rule or policy that would cease all collection of any Ohio Works First overpayments over 10 years old.

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**Will there be refunds on non-fraud cash assistance payments made pursuant to the Notice of Intent to refer to State Tax Offset Program for cash assistance debts over 10 years old?**

Current statute and regulations do not permit refunding on enforceable claims.

**Food Assistance**

**Will there be collection on non-fraud food assistance debts?**

Yes. Requirements related to overpayments in the food assistance program are governed by federal law, including 7 U.S.C. 2022(b), and federal regulations implementing the law.

**Will there be collection on non-fraud food assistance debts beyond 10 years?**

Only if an allotment reduction or payment plan is currently in effect. Delinquent claims before January 1, 2000 should be terminated and written off. All claims established after January 1, 2000, not being addressed through allotment reduction or a payment plan will be referred to the Treasury Offset Program for collection.

**Will non-fraud food assistance debts over 10 years old be terminated and written off?**

Per OAC 5101:4-8-19 claims that are delinquent for more than 3 years must be terminated and written off unless the claims will be referred to the Treasury Offset Program. Delinquent claims before January 1, 2000 should be terminated and written off.

**Will there be refunds on non-fraud food assistance payments made pursuant to the Notice of Intent to refer to Treasury Offset Program for food assistance debts over 10 years old?**

Recipients with claims certified to the Treasury Offset Program between May 2011 and December 2011 that were prior to January 1, 2000 will receive a Notice informing them of the change in policy and certification with the Treasury Offset Program. Affected recipients who have already experienced collection from this action through an offset are eligible for a refund. Counties will need to review the case and complete a JFS 7430.

ODJFS will continue to review and research current laws and regulations that may need amended or repealed regarding erroneous payment recovery. Further clarification and guidance will be forthcoming should additional policy changes occur.

If you have questions regarding this letter, please contact your ODJFS Regional Fraud Control Specialist.

c: Michael Colbert, Director  
ODJFS Deputy Directors  
Family Assistance Staff  
Fiscal and Monitoring Staff

Joel Potts, OJFSDA  
Larry Long, CCAO  
Kim Newsome, OCDA  
Crystal Allen, PCSAO