

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104 and 10A.401 to 10A.403, the Department of Inspections and Appeals hereby gives Notice of Intended Action to rescind Chapter 71, “Overpayment Recovery Unit,” and to adopt new Chapter 90, “Public Assistance Debt Recovery Unit,” Iowa Administrative Code.

Chapter 71 is being rescinded and replaced with Chapter 90. Chapter 90 has been updated to conform with current practices, laws, regulations, and rules.

Any interested person may make written suggestions or comments on these proposed amendments on or before February 2, 2010. Such written materials should be sent to Steven Mandernach, Administrative Rules Coordinator, Department of Inspections and Appeals, 321 E. 12th Street, Third Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may be sent by fax to (515)242-6863 or by E-mail to [steven.mandernach@dia.iowa.gov](mailto:steven.mandernach@dia.iowa.gov).

These amendments are intended to implement Iowa Code chapter 10A.

The following amendments are proposed.

ITEM 1. Rescind and reserve **481—Chapter 71**.

ITEM 2. Adopt the following **new** 481—Chapter 90:

CHAPTER 90  
PUBLIC ASSISTANCE DEBT RECOVERY UNIT

PREAMBLE

These rules define the department’s policies regarding the recovery of public assistance debts. See also Iowa Administrative Code 441—Chapter 11, “Collection of Public Assistance Debts.”

**481—90.1(10A) Definitions.** For the purposes of this chapter, the following definitions apply:

“*Active case*” means a household that is receiving public assistance.

“*Allotment reduction*” means an amount withheld from a financial or food assistance benefit. More specifically, “grant reduction” refers to the family investment program (FIP) and to refugee cash assistance (RCA), and “benefit reduction” refers to the food assistance (FA) program.

“*Debt*” means the dollar amount of public assistance, by program, received by or on behalf of a person or provider in excess of that allowed by law, rules, or regulations for any given month(s); or the dollar amount of public assistance unlawfully transferred or obtained in violation of program rules; or the dollar amount of unpaid IowaCare personal financial responsibility obligations.

“*Debtor*” means any person who has been determined by DHS or by the department to be responsible for the repayment of a particular public assistance debt.

“*Department*” means the department of inspections and appeals.

“*DHS*” means the department of human services.

“*Economic assistance fraud bureau*” means the economic assistance fraud bureau of the department of inspections and appeals.

“*FA*” means the food assistance program as defined in rule 441—65.1(234).

“*FIP*” means the family investment program described in 441—Chapters 40 to 46.

“*Notice of debt*” means a notice that informs the debtor that a debt in a public assistance program has occurred. The notice identifies the debt amount, the dates on which the debt was incurred, the cause of the debt, and the options the debtor has to repay the debt. (See 441—Chapter 11.)

“*Offsetting*” means the repayment of a debt by setoff of a state warrant or setoff of state income tax refunds or federal tax refunds and federal payments.

“*Public assistance*” means any program that DHS administers that confers a financial, medical, or food assistance benefit.

“*RCA*” means refugee cash assistance described in 441—Chapter 60.

“*Recovery*” means the repayment of a debt by direct cash payment from the debtor, by allotment reduction, by offsetting, or by garnishment of wages or assets.

“*Repayment agreement*” means an agreement entered into voluntarily between the department and the debtor for the repayment of a debt. Agreements are made on Form 470-0495, Agreement to Pay a Debt, or on a notice of debt listed in 441—subrule 11.2(2). The repayment agreement, whether Form 470-0495 or a notice of debt, tells the amount and program(s) overpaid and gives the debtor a choice of repayment methods. Failure to return the repayment agreement may result in further collection actions.

“*Title XIX divestiture*” means a debt against a person who receives transferred assets from a Medicaid applicant or recipient within five years prior to an application for medical assistance if the applicant is approved for medical assistance (Medicaid) or a transfer impacting the recovery or payment of a medical assistance (Medicaid) debt.

**481—90.2(10A) Recovery process.** The recovery process begins when data is successfully entered on the DHS overpayment recovery system and a notice of debt is issued to the debtor. The data specifies which public assistance program(s) is owed a debt.

**481—90.3(10A) Records.** The recovery unit maintains an account for each debt that has occurred for a debtor. The account is filed under the debtor’s name and includes information maintained pursuant to rule 441—11.2(217).

**481—90.4(10A) Review.** The recovery unit reviews the record and additional information provided in the DHS overpayment recovery system to determine whether a referral for suspected fraud will be made to the economic assistance fraud bureau. The referral criteria include client errors that are over \$1,000 per claim.

**481—90.5(10A) Debt repayment.** A notice of debt or Form 470-0495, Agreement to Pay a Debt, is used to initiate payments of a debt. The minimum rate of payment is determined by each program (unless set by a court order) and is negotiated by the debtor and recovery unit. All recoveries are transmitted to the DHS cashier. Payments are made directly in cash by the debtor except as otherwise provided in this rule. The amount of allotment reduction for an agency error shall be different from the amount of allotment reduction for a client error.

**90.5(1) Active cases—PROMISE JOBS program.** For payment reduction for the PROMISE JOBS program, the debtor must provide written permission to effectuate a FIP reduction.

**90.5(2) Active cases—FIP, RCA, FA.** Allotment reduction shall be used, except that cash payment pursuant to a repayment agreement may be used when the repayment amount exceeds the amount that may be collected by allotment reduction. For the food assistance program, debt repayment may also be made in accordance with subrule 90.5(3).

**90.5(3) Food assistance program with electronic benefit balances.** Food assistance payments may be made by returning electronic benefits to pay the debt.

**481—90.6(10A) Further collection action.** If complete repayment has not been received by the methods described in rule 481—90.5(10A), further collection action may be taken. This action includes, but is not limited to, the following:

**90.6(1) For all debts.**

a. Debts of \$5,000 or less, small claims court action.

- b. Debts of more than \$5,000, referral to the attorney general for district court action.
- c. State income tax refund offset in accordance with 441—Chapter 11 and Iowa Code section 8A.504.
- d. The filing of a claim in a debtor’s estate or bankruptcy proceedings.
- e. Garnishment of wages or assets.
- f. Setoff of a state warrant.
- g. Distress warrants.
- h. Liens.

**90.6(2)** *For food assistance debts.* In addition to the above actions, federal offsets (taxes, federal payments) may be used for the collection of food assistance debts in accordance with rule 441—11.5(234).

**481—90.7(10A) Appeal rights.** If a notice of debt or other notice of adverse action is received by the debtor and the debtor wishes to contest the debt, an appeal is submitted to the recovery unit or to DHS. If an appeal is submitted, the recovery process is suspended until conclusion of the appeal process outlined in 481—Chapter 10 and 441—Chapter 7.

**481—90.8(10A) Data processing systems matches.** The recovery unit compares information with other data processing systems to identify the location, resources, or income of a debtor. Part or all of a data processing system is used. The recovery unit uses, but is not limited to using, the data processing systems of the following entities:

1. Social Security Administration,
2. Department of workforce development,
3. Department of revenue,
4. Department of administrative services,
5. Department of transportation (driver’s license and motor vehicle registration), and
6. Department of human services.

**481—90.9(10A) Confidentiality.** The confidentiality of records is in accordance with 441—Chapter 9, “Public Records and Fair Information Practices.”

These rules are intended to implement Iowa Code sections 10A.108 and 10A.402.