

283—37.5(261) Offset against state income tax refund or rebate.

37.5(1) General. A claim against a defaulted borrower's state income tax refund or rebate will be made to receive payment against any defaulted student loan owed to the commission.

37.5(2) Certification. The commission shall submit to the department of revenue a list of defaulted borrowers to certify for offset.

37.5(3) Borrower notification. The commission shall mail a preoffset notice to a defaulted borrower when:

a. The commission is notified by the department of revenue that the defaulted borrower is entitled to a state income tax refund or rebate; and

b. The commission makes claim to the defaulted borrower's state income tax refund or rebate.

The preoffset notice will inform the defaulted borrower of the amount the commission intends to claim and apply to the outstanding defaulted student loan.

37.5(4) Challenge of offset. When the defaulted borrower contests a claim, a written request shall be submitted to the commission within 15 calendar days after the preoffset notice is mailed. When the request is received within the 15-day limit, a hearing shall be granted.

37.5(5) Spousal share. The spouse's proportionate share of a joint return filed with a defaulted borrower, as determined by the department of revenue, shall be released by the department of revenue unless other claims are made on that portion of the joint income tax refund. The request for release of the spouse's proportionate share shall be in writing and received by the commission within 15 calendar days after the mailing date of the preoffset notice.

37.5(6) Claim of offset. The commission may make claim to a defaulted borrower's state income tax refund or rebate when the defaulted borrower has not made a voluntary payment which has been posted to the borrower's account during the 120 days preceding the day an offset tape match is run. A voluntary payment toward a defaulted loan is defined as making an agreed-upon monthly payment through a means other than by offset or garnishment.

37.5(7) Appeals.

a. General. Borrowers with defaulted student loans may appeal commission decisions to offset their state tax refunds or rebates pursuant to the procedures provided in this rule.

b. Procedures. If a defaulted borrower contests a claim, written appeal shall be presented to the commission's state offset coordinator, setting forth reasons for disagreement. The evidence must be presented within 15 calendar days after notification of the proposed offset, and the appellant may request a hearing.

(1) If no hearing is requested, the state offset coordinator will consider all evidence provided and will notify the appellant within 30 calendar days whether the decision is retracted, modified, or upheld. The appellant will be advised of the appellant's right to carry the appeal to an administrative law judge.

(2) If a hearing is requested, the state offset coordinator will set a date for the hearing no later than 30 calendar days from the date that the request was received.

(3) An administrative law judge will preside at the hearing and will consider any written material presented before the hearing as well as other evidence presented during the course of the hearing.

(4) After considering all evidence presented, the administrative law judge will notify the appellant in writing as to the decision on the appeal, advising the appellant of the appellant's right to carry the appeal to a full meeting of the commission or to its appointed appeals panel.

c. Additional provisions. Except as specifically provided in this rule, administrative hearings will be governed by 283—Chapter 4.