

**441—11.4 (217) Setoff against state income tax refund, rebate, or other state payments, including, for example, state employee wages.**

**11.4(1) Criteria for setoff.**

*a.* A claim against a debtor may be made by the department for public assistance debts when:

- (1) A debtor has failed to negotiate a repayment agreement for that program area of public assistance, or
- (2) A repayment agreement is not current, and
- (3) The cumulative balance of the applicable debts in 11.4(1) “*a*”(1) and (2) exceeds \$50.

*b.* A claim against a debtor will not be made by the department for debts when:

- (1) The debt is in suspended status due to an exception to policy or is in an appeal status, or
- (2) The debt is being recovered through grant or benefit reduction.

**11.4(2) Frequency of submission.** The department shall submit to the department of administrative services twice each month a list of those debtors who have a debt meeting the criteria in subrule 11.4(1).

**11.4(3) Pre-setoff notice.** The department shall mail written notification to a debtor to inform the debtor of the amount the department intends to claim and apply to debts in each program when:

- a.* The department is notified by the department of administrative services that the debtor is entitled to a state income tax refund, rebate, or other state payment;
- b.* The department makes claim against the debtor.

**11.4(4) Method for division of joint payments.** When either spouse wishes to request a division of a jointly or commonly owned right to payment, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, the spouse’s proportionate share of a jointly or commonly owned right to payment, as determined by the department of administrative services, shall be released by the department of administrative services unless:

- a.* Other claims are made on that portion of the jointly or commonly owned right to payment, or
- b.* That spouse was also a member of the same household and the spouse’s income and resources were or should have been considered in the calculation of public assistance.

**11.4(5) Appeal rights.** When a debtor wishes to contest the claim of the department, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

*a.* If the department is upheld in the final decision, the setoff process shall continue and the refund, rebate, or other state payment shall be applied to the appropriate delinquent debts.

*b.* If the department is reversed in the final decision, the debtor’s refund, rebate, or other state payment shall be released to the debtor by the department of administrative services.

**11.4(6) Debt setoff.** If the department has not received a request for an appeal hearing or a request for division of a jointly or commonly owned right to payment within 15 days after the date the written notification is mailed, the department shall notify a debtor of the final decision regarding the claim by mailing the Debt Setoff Credit Letter, Form 470-1667, to the debtor.

**11.4(7) Application of setoff.** The department shall apply any setoff received from the department of administrative services as a result of this rule to the debtor’s debts as indicated on the written notification mailed to the debtor and in accordance with rule 441—11.3(217).

Any amount remaining after the setoff shall be released back to the individual.