

701—26.7(421) Challenges.

26.7(1) Challenges may be submitted to the department via the manner described on the challenge notice furnished to the obligor by the department pursuant to Iowa Code section 421.65(2)“e.” Challenges shall be submitted within 15 days of the date of the notice. Challenges may be initiated only by an obligor.

26.7(2) Upon receipt of a challenge, the department will contact the obligor to schedule a review conference.

26.7(3) The department shall notify the public agency of the challenge. The public agency shall provide the department with any relevant information that the department requests for the challenge.

26.7(4) The public agency shall hold the setoff funds until final disposition of the challenge.

26.7(5) During the review conference, the department will review the information. After the review conference, the department will issue a determination based on the preponderance of the available information.

26.7(6) Successful challenges. The department shall notify a public agency of a successful challenge. At the direction of the department, the public agency shall refund all or a portion of the setoff amount to the obligor or return all or a portion of the setoff amount to the department. The public agency must adhere to the department’s determination and has no appeal opportunity. In the event of a successful challenge, the department shall retain the fee paid by the public agency for use of the setoff program.

26.7(7) Unsuccessful challenges. The department shall notify a public agency of an unsuccessful challenge.

26.7(8) In the event of an unsuccessful setoff challenge, an obligor may file an action in district court as described in Iowa Code section 421.65(3)“f.” The defendant shall be the public agency with an additional copy of such petition to be served upon the office of the attorney general. Neither the department nor any department officials or employees shall be named as parties in such a district court action. The public agency shall be responsible for any defense and costs.

26.7(9) The date and time of filing a challenge shall be computed in accordance with rule 701—7.4(17A).

This rule is intended to implement Iowa Code section 421.65.

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