

12.4 Overpayment Tax Intercept Administrative Hearings Administrative Hearings for Delinquency Collection Actions

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The Public Assistance Collection Unit (PACU) located in Department of Children and Families (DCF) serves as the State's central collection section for the recovery of delinquent public assistance overpayments. The PACU is responsible for administering the tax intercept program through the Central Recoveries Enhanced System (CRES). Delinquent public assistance overpayments may be collected through the interception of Wisconsin state tax refunds and/or credits. PACU utilizes and initiates various collection methods to recover overpayments, including liens, levies, and tax intercepts, which are known as delinquency actions. Liens are docketed against a debtor's real and personal property, such as a home to secure the state's interest. Levies are issued against all real and personal property including wages or bank accounts. Tax interceptions are issued against the clients state tax refunds or credits owed by the debtor.

Once an individual is notified of the intended tax intercept delinquency collection action, he or she has 30 21 calendar days to appeal a levy or lien collection action and 30 calendar days to appeal a tax intercept collection action. The Division of Hearings and Appeals (DHA) conducts public assistance overpayment tax intercept the administrative hearings for delinquency collection actions.

W-2 agencies are required to attend all overpayment related hearings including tax intercept hearings as they relate to respectively administered programs. Although the PACU operates the tax intercept program, the agency that initiated the overpayment is responsible for attending and providing adequate case documentation to support the state's collection actions in a tax intercept hearing.

12.4.2 Role of the W-2 Agency in Tax Intercept Administrative Hearings for Delinquency Collection Actions

A tax intercept delinquency hearing may be limited to the delinquency collection action or questions of prior payment or debtor identity. However, under certain circumstances the Administrative Law Judge (ALJ) may decide to review the underlying merits of the overpayment. This can include inquiries such as how the overpayment was calculated and whether proper notice to the debtor(s) had been provided. Therefore, the agency must attend the hearing and be prepared to defend the original overpayment determination as well as the tax intercept action. Tax intercept hearings can also be requested for Job Access Loans (JAL). The agency should have the JAL application and repayment agreement available to present at the hearing.

W-2 agencies are not involved in the delinquency hearing process. PACU will appear and prepare all exhibits for all lien and levy delinquency hearings. DCF's Office of Legal Counsel (OLC) will appear and prepare all exhibits for tax intercept hearings. PACU and OLC will

collaborate with the Wisconsin Works (W-2) agency prior to the delinquency hearing to determine if a fact-finding review took place on that claim. When a W-2, Job Access Loan (JAL), or Emergency Assistance (EA) delinquency hearing results in the need to address the merits of the overpayment, PACU and OLC will request that the ALJ schedule a fact finding if there was no prior fact finding decision made prior to the delinquency hearing. The local W-2 agency that established the claim will follow the current procedures in 12.2.5. If there is a fact finding decision on record, PACU will request that the ALJ schedule a departmental review. The local W-2 agency that established the claim will follow the current procedure for departmental review in Section 12.3.

If a merit hearing or departmental review already occurred on the W-2, JAL or EA related claim, PACU and OLC will provide that information at the time of the delinquency hearing and will request no additional hearing to be scheduled.

~~When a W-2 (including JAL and EA) levy or lien delinquency hearing results in the need to address the merits of the overpayment the agencies, the following actions will take place~~

Documentation that the W-2 agency should present at the hearing may include:

- ~~• The policy supporting the agency's action (i.e., why the overpayment occurred);~~
- ~~• Any relevant documentation supporting the overpayment, for example:
 - ~~○ Original overpayment notices and worksheets, dunning notices, signed repayment agreements;~~
 - ~~○ CARES budget and issuance screens;~~
 - ~~○ CARES case comments;~~
 - ~~○ Employment verifications;~~
 - ~~○ Fraud investigations, if applicable; and~~
 - ~~○ Any related Fact Findings for W-2/JAL.~~~~

~~When a customer requests a hearing on the intended State tax intercept, DHA will e-mail a Request for Summary form to PAGU to determine the appeal type. PAGU will forward the Request for Summary form to the agency who established the overpayment to complete and return the summary form to DHA. The agency is required to explain the disputed action which is being appealed in the summary form and include any attachments or supporting documentation. This form must be completed and returned to DHA within 10 days of DHA's e-mail date. Once the summary form is received and processed, DHA will notify W-2 agencies of all requested administrative tax intercept hearings. DHA will also notify the agency with the date, time and location of the tax intercept hearing.~~

The delinquency hearing will be held in the Petitioner's current county of residence. If the case has been transferred to another W-2 agency since the overpayment determination, both the current agency and the previous agency will be notified of requested appeals. The agency where the overpayment originated is the agency that must attend and provide supporting information for any requested tax intercept hearing if the hearing is rescheduled to a fact-finding or departmental review hearing. An agency can request to attend the hearing by

telephone in a transferred case situation or at any other time that a telephone appearance is warranted. The notice of scheduled hearing will list the Administrative Law Judge and his or her telephone number to contact for requested telephone appearances.

12.4.2.1 Lien or Levy Collection Action Hearings

When a program participant appeals a lien or levy collection action through DHA for W-2, JAL, or EA, DHA will notify PACU and the local agency that established the claim via email. The local agency does not need to take any action at that time. PACUs will take the following actions:

- Prepare and provide DHA with all exhibits;
- Appear at the hearing and defend the lien and/or levy collection action;
- Review decisions for policy adherence;
- Comply with the hearing decision by removing/continuing lien and levy collection action; and
- Provide the certification of compliance to DHA, when necessary.

12.4.2.2 Tax Intercept Hearings

When a program participant appeals a tax intercept action through DHA for W-2, JAL, or EA, DHA will notify PACU and the local agency that established the claim via email. The local W-2 agency does not need to take any action at that time. PACU and the Department of Children and Families (DCF) Office of Legal Counsel (OLC) will take the following actions:

- PACU will communicate with OLC that a debtor initiated a W-2 tax intercept appeal through DHA.
- OLC will request DHA to convert the delinquency hearing to a contested case hearing.
- OLC will prepare and provide DHA with all exhibits.
- OLC will appear at the hearing and defend the tax intercept action.
- OLC will comply with the hearing decision by removing/continuing the tax intercept action.
- OLC will work with PACU to complete and provide a certification of compliance to DHA when necessary.