



July 11, 2022

Cash Assistance Manual Transmittal Letter No. 182

TO: All Cash Assistance Manual Holders
FROM: Matt Damschroder, Director
SUBJECT: **Five Year Rule Review: Unsubsidized Employment: Job Skills Training Directly Related to Employment: Ohio Works First: State Tax Refund Offset Program.**

In accordance with section 106.03 of the Ohio Revised Code (ORC), each state agency is required to review each of its rules in the Ohio Administrative Code a minimum of once every five years. The intent of the review is to ensure that Administrative Code rules are clearly written and that program requirements are accurate, up-to-date, and clearly expressed. To the extent possible, unnecessary paperwork will be eliminated, local agencies will be given increased flexibility, and any adverse impact on businesses will be eliminated or reduced. As a result of the review, the agency may amend the rule; rescind the rule; or continue the rule without amendment.

The Office of Family Assistance (OFA) has completed a review of the following rules and the rules have been subject to a review by the Joint Committee on Agency Rule Review (JCARR). The rules will become effective on 08/01/2022.

Chapter 2000

5101:1-3-12.1 "Unsubsidized Employment."

This rule describes the unsubsidized employment work activity for the Ohio Works First program. Changes to the rule include:

- The title of paragraph (A) was updated to "Which section of the Revised Code applies to unsubsidized employment?";
- Paragraph (A)(1) was updated to state "Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan"; and
- Paragraph (A)(2) was updated to include sections 5107.54, 5107.541 and section 5107.60 was replaced with 5107.61 of the Revised Code.

5101:1-3-12.9 "Job Skills Training Directly Related to Employment."

This rule describes the job skills training directly related to employment work activity for the Ohio Works First program. Changes to the rule include:

- The title of paragraph (A) was updated to "Which section of the Revised Code applies to job skills training directly related to employment?";

- Paragraph (A)(1) was updated to state “Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law, and the state plan”; and
- Paragraph (A)(2) was updated to include sections 5107.54, 5107.541 and section 5107.60 was replaced with 5107.61 of the Revised Code.

Chapter 4000

5101:1-1-90 “Ohio Works First: State Tax Refund Offset Program.”

This rule describes the state tax refund offset program for Ohio Works First. OFA amended this rule to remove the form revision date as a result of Senate Bill 221 of the 132nd General Assembly that amended incorporation by reference requirements contained in section 121.71 to 121.75 of the Ohio Revised Code and minor language changes were made for clarity.

5101:1-1-90

Ohio works first: state tax refund offset program.

(A) What is the state tax refund offset program?

- (1) The state tax refund offset program allows the offset of Ohio income tax refunds to collect delinquent aid to dependent children, temporary assistance to needy families, and Ohio works first (OWF) program overpayment claims.
- (2) Periodically, but no less than annually, the Ohio department of job and family services (ODJFS) certifies to the Ohio department of taxation a list of applicable debtors.
- (3) The Ohio department of taxation offsets the certified debts against income tax refunds payable to the debtors, and notifies the debtors and ODJFS of offsets which have been made.

(B) When is a claim referred to the state tax refund offset program?

To refer a claim to the state tax refund offset program, the following criteria must be met:

- (1) The claim must be past due. A claim becomes past due when a cash payment has not been received for ninety consecutive days on an established overpayment. An established overpayment is one in which an adult responsible for repayment of the claim was issued a demand notice.
- (2) The claim must be legally enforceable.
 - (a) The claim shall be properly established by electronic records or paper documents held by the county agency in accordance with section 5107.76 of the Revised Code and rule 5101:1-23-70 of the Administrative Code. The evidence shall include verification that the assistance group was notified of hearing rights on the claim as described in rule 5101:6-2-20 of the Administrative Code.
 - (b) The claim has not been discharged in bankruptcy for the referred individual, nor is there a bankruptcy stay in effect for the referred individual.
- (3) The claim must be at least twenty-five dollars or more.
- (4) The date of the initial demand letter must be within ten years of the date on which the debt is certified to the state tax refund offset program. Exceptions to the ten year limitation include claims reduced to final court judgments and claims due to an individual's intentional violation of the program requirements as described in rule 5101:1-23-75 of the Administrative Code.

(C) When is a claim not referred to the state tax refund offset program?

- (1) The claim is not past due;
- (2) The liable adult(s) is eligible for an Ohio works first grant reduction. Even when the claim is being repaid through a grant reduction of the assistance group's benefits, any other liable adult who is not currently in receipt of Ohio works first benefits may be referred to the Ohio department of taxation for offset;
- (3) A state hearing decision on the issue of the claim is pending;
- (4) The thirty days allowed for the assistance group's response to a notice of overpayment has not yet expired;
- (5) An individual is making payments pursuant to an agreed upon schedule of payments or the claim has been paid in full; or
- (6) There is another documented reason that the claim is not past due.

(D) Who is liable for a claim?

A liable individual is one who was an adult or minor head of household during the time period of the claim. Each claim is submitted in the name of one or more liable individuals.

(E) How is the debtor notified of the offset?

ODJFS mails an automated thirty day notice of intent to offset to the address provided by the Ohio department of taxation. The notice informs the debtor that agency records document:

- (1) The individual is liable for a specified unpaid claim balance amount;
- (2) Previous notification about the claim was sent;
- (3) Prior collection efforts have been made;
- (4) The claim is past due and legally enforceable;
- (5) The county agency will refer the claim to the state tax refund offset program unless the debtor;
 - (a) Pays the balance within thirty days of the date of the notice when the balance is five hundred dollars or less; or

(b) Pays five hundred dollars within thirty days of the date of the notice (when the debt is greater than five hundred dollars) and makes other acceptable repayment arrangements for the balance due;

(6) Instructions about how to pay the claim;

(7) County contact information; and

(8) The right to request a review concerning the intent to refer the debt for offset.

(F) What are the responsibilities of the county agency?

Each county agency shall:

(1) Maintain a toll-free telephone service available during the county agency's regular business hours. The toll-free telephone number and the mailing address of the county agency are printed on all state tax refund offset program notices to debtors.

(2) Verify the debtor's identifying information, access the claim case information, and discuss the case with the debtor when the debtor receives the thirty day notice of intent to offset and contacts the agency.

(3) Inform the debtor of repayment arrangements acceptable to prevent offset as specified in paragraph (I) of this rule.

(G) What are the requirements for an individual to request a review of the debt referred?

The request for review shall:

(1) Be received at the county agency in writing no later than thirty days after the mailing date of the notice of intent;

(2) Include evidence or documentation to support the debtor's belief that the claim is not past due or is not legally enforceable;

(3) Contain the debtor's social security number; and

(4) Include a statement, signed by the debtor, authorizing another person to represent the debtor when someone other than the debtor makes a request for review on behalf of the debtor.

(H) How is a request for review handled?

- (1) Within fifteen days of the debtor's request for review the county agency shall notify the debtor in writing of the following:
 - (a) Continued intent to refer the claim for offset when the county agency determines that the claim is past-due or is legally enforceable;
 - (b) The debtor's right to have ODJFS review the county agency's decision; and
 - (c) Instructions and time limits for requesting the review by ODJFS.
 - (2) When the county agency determines that the claim is not past-due or is not legally enforceable, the county agency shall notify the debtor in writing that the claim will not be referred for offset, and take any action necessary to establish or recover the claim or other action as may be required.
- (I) What are the responsibilities of ODJFS when a request for review is made?
- (1) ODJFS shall not refer for offset any claim for which a review has been requested when:
 - (a) The county agency or ODJFS determines that the claim is not past-due or is not legally enforceable; or
 - (b) The county agency does not complete a requested review or does not notify the debtor of the results of that review.
 - (2) ODJFS shall notify the county agency and the debtor of its decision concerning any debtor's request for review. When the review decision is that the county agency:
 - (a) Correctly determined the claim is past-due and legally enforceable, ODJFS shall notify the debtor that any further appeal must be made through the courts.
 - (b) Incorrectly determined the claim is past-due and legally enforceable, ODJFS also must notify the county agency about any corrective action which must be taken with respect to the claim.
 - (3) When the debtor makes an acceptable repayment arrangement with the county agency, the claim is not referred for offset.
- (J) What is an acceptable repayment arrangement?

- (1) When the claim(s) balance is five-hundred dollars or less, the balance must be paid in full within thirty days of the mailing date of the thirty day offset notice.
- (2) When the claim(s) balance amount is more than five-hundred dollars, a minimum payment of five-hundred dollars and a signed, written agreement to repay the balance must be received by the county agency within thirty days of the mailing date of the thirty day offset notice. The repayment agreement must be acceptable to the county agency.
- (3) Any payment the county agency receives in response to a debtor's receipt of a thirty day state tax refund offset program notice of intent to refer a claim for offset shall be credited to the claim(s) which is to be referred for offset.
- (4) The county agency shall enter the repayment agreement and any additional information into the statewide automated eligibility system on the day it is received.

(K) What happens when a claim does not meet the criteria for referral?

- (1) When the county agency or ODJFS staff becomes aware that a claim referred for offset does not meet all criteria for referral, ODJFS shall cancel the referral.
- (2) When the reason for cancellation of the referral is not because of a repayment arrangement being established as one of the changes listed in paragraph (I) of this rule, the county agency shall inform ODJFS of the inappropriate referral with the JFS 07430, "Offset Programs Referral Cancellation/Refund Request," ~~(rev. 2/2012)~~.
- (3) The county agency shall submit the JFS 07430 by facsimile or e-mail to ODJFS within one business day from the date of the determination that the referral must be canceled.
- (4) ODJFS shall update the statewide automated eligibility system upon receipt of the JFS 07430 and the information will be transmitted to the Ohio department of taxation in the next weekly update file.

(L) What happens when a claim is referred?

After the certification of a debt:

- (1) ODJFS sends weekly updates of account information to the Ohio department of taxation;

- (2) Changes entered into the statewide automated eligibility system, such as payments received, repayment arrangements, decrease in claim balance and reopening of the case will automatically update referral data already sent to the Ohio department of taxation;
- (3) When the offset occurs, ODJFS credits the applicable claim(s) and updates the statewide automated eligibility system accordingly, and ensures that the affected individual is notified of the offset in writing; and
- (4) Upon receiving notice of offset, ODJFS shall refund any incorrect collection resulting from the offset. ODJFS must also notify the individual of the refund amount in writing.

(M) Must the state tax refund offset program information be safeguarded?

ODJFS and the county agency shall safeguard Ohio department of taxation information from unauthorized access and use. This information includes printed reports and on-line statewide automated eligibility system information provided to authorized personnel. This information may be used only as needed for the administration of the state tax refund offset program, and shall be protected from overt and inadvertent disclosure.

Effective: 8/1/2022
Five Year Review (FYR) Dates: 5/2/2022 and 08/01/2027

CERTIFIED ELECTRONICALLY

Certification

07/07/2022

Date

Promulgated Under: 119.03
Statutory Authority: 5107.05
Rule Amplifies: 5107.05, 5101.184, 5747.122
Prior Effective Dates: 10/01/2000, 11/01/2005, 01/01/2011, 04/16/2012,
07/01/2017

5101:1-3-12.1 **Unsubsidized employment.**

(A) ~~Conflict with Revised Code~~ Which section of the Revised Code applies to unsubsidized employment?

(1) ~~Section (5) of Amended Substitute Senate Bill 238 of the 126th General Assembly (9/2006) sets forth the following provision: Not later than September 30, 2006, the director of job and family services shall adopt rules as necessary for the state to comply with 42 U.S.C. 607(i)(2) (8/1996). If necessary to bring the state into compliance with 42 U.S.C. 607(i)(2) (8/1996), the rules may deviate from Chapter 5107. of the Revised Code. Rules adopted under this section that govern financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. All other rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law and the state plan.~~

(2) The county agency shall administer the work activity programs in accordance with the requirements contained in this rule and not in accordance with sections 5107.40, 5107.54, 5107.541 and ~~5107.60~~ 5107.61 of the Revised Code. All applicable requirements contained in the Revised Code sections referenced have been incorporated in this rule.

(B) What is unsubsidized employment?

(1) Unsubsidized employment means full or part time employment in the private or public sector that is not subsidized by temporary assistance for needy families (TANF) or any other public program.

(2) When an employer received a direct subsidy for hiring a recipient from TANF or other public funds, that recipient is considered to be in a subsidized public or private sector employment, not unsubsidized employment.

(3) Recipients whose employers claim a tax credit for hiring economically disadvantaged workers are considered to be participating in unsubsidized employment.

(4) Self employment will count as unsubsidized employment.

(C) What hours of participation in unsubsidized employment may count toward work participation?

- (1) Verified hours of unsubsidized employment shall count toward work participation. Hours for unsubsidized employment shall be verified at least once every six months, as described in rule 5101:1-3-12 of the Administrative Code.
- (2) Hours of self employment are determined by dividing the individual's self employment income (gross receipts less business expenses) by the federal minimum wage.
- (3) Hours of employment resulting from in-kind or barter income, defined as an exchange of property or services, shall count toward work participation.

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10/01/2008, 02/05/2012, 05/01/2017

5101:1-3-12.9

Job skills training directly related to employment.

(A) ~~Conflict with Revised Code~~ Which section of the Revised Code applies to job skills training directly related to employment?

(1) ~~Section (5) of Amended Substitute Senate Bill 238 of the 126th General Assembly (9/2006) sets forth the following provision: Not later than September 30, 2006, the director of job and family services shall adopt rules as necessary for the state to comply with 42 U.S.C. 607(i)(2) (8/1996). If necessary to bring the state into compliance with 42 U.S.C. 607(i)(2) (8/1996), the rules may deviate from Chapter 5107. of the Revised Code. Rules adopted under this section that govern financial and other administrative requirements applicable to the department of job and family services and county departments of job and family services shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. All other rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code~~ Section 5107.05 of the Revised Code authorizes the director of job and family services to adopt rules as necessary to comply with Title IV-A, Title IV-D, federal regulations, state law and the state plan.

(2) The county agency shall administer the work activity programs in accordance with the requirements contained in this rule and not in accordance with sections 5107.40, 5107.54, 5107.541 and ~~5107.60~~5107.61 of the Revised Code. All applicable requirements contained in the Revised Code sections referenced have been incorporated in this rule.

(B) What is job skills training directly related to employment?

(1) Job skills training directly related to employment means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace.

(2) Job skills training includes, but is not limited to the following:

(a) Customized training to meet the needs of a specific employer. Customized training can include literacy instruction or language instruction when such instruction is explicitly focused on skills needed for employment or combined in a unified whole with job skills training;

(b) General training that prepares an individual for employment; and

(c) Unpaid internships when directly related to employment.

- (3) Post-secondary education leading to a baccalaureate or advanced degree may fall within the definition as long as it is directly related to a specific job or occupation. Participants can be assigned to this activity after the twelve months of vocational educational training has been used.
- (4) The following activities do not meet the definition of job skills training directly related to employment:
 - (a) Substance abuse counseling and treatment;
 - (b) Mental health services; and
 - (c) Other rehabilitative activities.
- (C) When may homework count toward the job skills training directly related to employment?

The county agency may count supervised homework time and up to one hour of unsupervised homework time for each hour of class time. Total homework time counted for participation may not exceed the hours required or advised by a particular educational institution. The county agency shall document the homework expectations of the educational program in order to count homework time.

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