

 <p>HAWAII HEALTH SYSTEMS C O R P O R A T I O N "Quality Healthcare For All"</p> <p>POLICY</p>	<p>Department:</p> <p>FINANCE and LEGAL</p>	<p>Policy No.:</p> <p>FIN 0009A</p>
		<p>Supersedes Policy No.</p>
<p>Subject:</p> <p>DEBTOR TAX REFUND SETOFF</p>	<p>Approved by:</p> <p><i>Brenda S. Ho</i></p> <p>HHSC Board of Directors By: Brenda Ho Its: Secretary/Treasurer</p>	<p>Approved Date:</p> <p>February 27, 2025</p>
		<p>Last Reviewed:</p> <p>February 27, 2025</p>

I. PURPOSE:

The purpose of this policy is to set forth the authority by which state income tax refunds or other sums owed by the state to those persons owing a debt to HHSC shall be setoff to recover the debt, and to establish an administrative hearing process to contest the setoff. This policy shall not afford a debtor the opportunity for a hearing on any issue that has been previously litigated, or where a hearing on the same debt was previously requested by or on behalf of the debtor.

II. DEFINITIONS:

As used in this policy:

- **Administrative Hearing** means an administrative proceeding that affords an aggrieved person the opportunity to present an appeal before an impartial HHSC representative for a formal decision.
- **Authorized Representative** means an individual who has been authorized in writing by the Claimant to act for and represent the Claimant in any and all aspects of the administrative hearing.
- **Claimant** means any Debtor who has requested an administrative appeal in writing to contest HHSC's intention to setoff the individual's Refund to recover a Debt.
- **Date of hearing request** means the date HHSC receives a signed written Request for an Administrative Hearing by the Claimant or Authorized Representative of the Claimant that meets all of the criteria of a Request for an Administrative Hearing as defined in this section. When there is no prior written request by the Claimant, and no written authorization naming an Authorized Representative, the date of hearing request shall be the date the authorization is received.
- **Debt** means any sum exceeding \$5,000.00 when incurred, all or a portion of which remains due and owing to HHSC due to unpaid medical bills for treatment received at a HHSC facility.

- **Debtor** means any person, other than a current employee, who owes a Debt to a HHSC facility for medical treatment.
- **Hearing Officer** means an impartial person assigned by HHSC's President & CEO (PCEO) to conduct an administrative hearing and render a final decision. The hearing officer shall not have been directly involved in the initial determination of the action in question.
- **Pretax Setoff Notice** means the initial notice that is sent by the State Comptroller or the Director of Taxation to inform the Debtor of HHSC's intention to apply the Debtor's Debt against the Debtor's Refund.
- **Refund** means any Hawaii state income tax refund which is or will be due any Debtor, and/or any other sums due to a Debtor from the State of Hawaii.
- **Request for an Administrative Hearing** means a clear written expression to HHSC's PCEO or designee by the Claimant or an Authorized Representative that the Claimant is contesting the setoff and requesting an Administrative Hearing.
- **Tax Setoff** means the interception and retention of a Refund to recover a Debt.

III. SETOFF PROCESS:

- A. Within ten years from the date when a Debt was incurred at an HHSC facility, HHSC or its representative may request that the State of Hawaii's Department of Accounting and General Services (DAGS) or the Department of Taxation (DOTAX) setoff any valid Debt due and owing HHSC by a Debtor against any Debtor's Refund. Any amount of the Refund in excess of the amount retained to satisfy the Debt shall be refunded to the Debtor.
- B. DAGS or DOTAX shall mail to the Debtor a Pretax Setoff Notice.
- C. A Debtor receiving a Pretax Setoff Notice shall have thirty days after the date of the notice to submit a written Request for an Administrative Hearing.
- D. The Tax Setoff shall become final if an Administrative Hearing is not requested within thirty days following the date of the Pretax Setoff Notice, or upon completion of the hearing and appeal process set out in Hawaii Revised Statutes § 231-54, whichever is later.
- E. In the case of a Tax Setoff against a joint income tax refund, separate refunds may be apportioned in accordance with Hawaii Revised Statutes §231-57. A Debtor or other interested party may seek guidance from DOTAX or a tax professional on how to request the apportionment of a joint refund, as HHSC cannot provide legal or tax advice to a Debtor.

IV. RIGHTS OF THE CLAIMANT:

Upon a timely Request for an Administrative Hearing directed to the HHSC PCEO or his/her representative, the Claimant or the Claimant's Authorized Representative shall have an opportunity to:

- A. Examine the case record as well as all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing;
- B. Present the case independently or with the aid of others including legal counsel;
- C. Bring witnesses, including an interpreter if the Claimant is non-English speaking. If the Claimant does not have an interpreter and HHSC believes an interpreter is necessary, an interpreter shall be provided by HHSC;
- D. Establish all pertinent facts and circumstances;
- E. Advance any arguments appropriate to the issue being heard without undue interference; and
- F. Question or refute any testimony or evidence, and confront and cross examine any witness.

V. DENIAL, DISMISSAL AND ABANDONMENT OF REQUESTS FOR ADMINISTRATIVE HEARING:

A. Grounds for Denial or Dismissal of a Request for an Administrative Hearing:

(1) When the Claimant has withdrawn the Request for an Administrative Hearing in writing, the request will be dismissed. Where the Claimant verbally reports a desire to withdraw the Request for an Administrative Hearing, the Claimant shall be advised that the withdrawal must be submitted in writing. If the Claimant prefers, HHSC shall confirm in writing to the Claimant that the Claimant has requested to withdraw the Request for an Administrative Hearing.

(2) If HHSC decides not to complete the setoff, or refunds the setoff amount before a hearing is scheduled, the Request for an Administrative Hearing shall be denied.

(3) If the Request for an Administrative Hearing is not received by HHSC or its designee within thirty days of the date on the Pretax Setoff Notice, the Request for an Administrative Hearing shall be denied.

(4) If a judgment has been entered regarding the Debt, the Request for an Administrative Hearing shall be denied unless the Debtor alleges the amount of the setoff exceeds the outstanding balance of the debt in violation of III.A., above, in which situation an otherwise proper Request for an Administrative Hearing will not be denied based solely on the existence of a judgment on the Debt.

When a Request for an Administrative Hearing is denied or dismissed, HHSC shall inform the Claimant in writing, stating the reasons for the denial or dismissal. Written notice shall be provided to the Claimant within a reasonable time following the date of the Request for an Administrative Hearing.

B. Abandonment of a Request for an Administrative Hearing:

Abandonment occurs when the Claimant or the Authorized Representative, without good cause, fails to appear at the scheduled Administrative Hearing.

(1) The Hearing Officer shall send the Claimant a letter stating that the Request for an Administrative Hearing is considered abandoned unless the Claimant contacts the agency within ten calendar days of the notice and presents good cause for the Claimant's failure to appear. If no reply is received within the ten calendar days, the Request for an Administrative Hearing shall be considered abandoned. If the tenth day falls on a weekend or holiday, the deadline shall be the first business day following the weekend or holiday.

(2) Good cause may be established on the basis of one of the following:

(a) Personal injury or illness that reasonably prohibited the Claimant from attending the Administrative Hearing; or

(b) Death in the family; or

(c) Sudden and unexpected emergency; or

(d) Verified technology impediments that reasonably prevented the Claimant from attending the Administrative Hearing.

VI. THE ADMINISTRATIVE HEARING:

A. The Administrative Hearing shall include consideration of:

(1) Evidence received, including oral testimony and exhibits; and

(2) Proposed findings and exceptions.

B. The Claimant is required to appear at the administrative hearing unless authorization for an Authorized Representative is received by HHSC. Unless both HHSC and the Claimant agree to the presence of other individuals, the hearing officer or other person conducting the administrative hearing shall limit attendance to the following individuals necessary for the conduct of the hearing:

(1) The Claimant and/or the Authorized Representative, any interpreter, legal counsel, and witnesses;

(2) HHSC facility patient financial representative(s) and counsel;

(3) Hearing Officer and members of the administrative appeals office staff.

- C. The Administrative Hearing shall be conducted at a reasonable time, date, and place, and may be conducted via telephone or video teleconference. If the hearing is held in-person, it shall preferably be held in the HHSC geographic region in which the Claimant is living at the time of the hearings.
- D. The hearing shall be recorded.
- E. The decision of the Hearing Officer shall be based exclusively on evidence and other material introduced at the Administrative Hearing. If, after an Administrative Hearing has begun, additional evidence is necessary for the proper determination of the case, the Hearing Officer may:
 - (1) Continue the Administrative Hearing to a later date. The Hearing Officer may order further investigation and may direct either party to produce additional evidence; or
 - (2) Close the Administrative Hearing and hold the record open for a period not to exceed thirty days to permit the receipt of additional documentary evidence.

VII. DECISION:

- A. Unless the record is held open for additional documentary evidence as provided above, after closing the Administrative Hearing, the Hearing Officer shall prepare the decision in writing. The decision shall contain a statement of the reasons for the decision, the evidence, the rules supporting the decision, and the Claimant's right to judicial review. A copy of the written decision shall be provided to the Claimant or Authorized Representative, and the HHSC facility where the Debt was incurred.
- B. The transcript, recording, or an official record containing the substance of the Administrative Hearing proceedings, together with all papers filed in the proceeding and the Hearing Officer's decision, shall constitute the exclusive record and shall be maintained by the Hearing Officer. The record shall be made available to the Claimant or the Authorized Representative upon request during normal business hours.
- C. The HHSC facility shall comply with the Administrative Hearing decision immediately upon receipt of the decision.
- D. All matters relating to the Administrative Hearing shall be heard and disposed of within 60 days following the Administrative Hearing, except when the hearing is continued or the record is held open as specified in VI.E.

VIII. APPEAL RIGHTS:

Either the Claimant or the HHSC Facility may appeal an adverse administrative hearing decision to Hawaii State Circuit Court in accordance with Chapter 91 of the Hawaii Revised Statutes.

IX. AUTHORITY: Hawaii Revised Statutes Sections 231-51 through 231-58 and Chapter 91.

X. APPLICABILITY: All HHSC facilities and Corporate Office.

XI. RELATED PROCEDURE(S): None.

XII. REFERENCE(S): None