

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 660 Department or Agency Human Resources
Rule No. and Title 660-3-6-.08 Procedures for Handling Complaints
 New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? N/A

Is there a reasonable relationship between the state's policed power and the protection of the public health, safety, or welfare? N/A

Is there another, less restrictive method of regulation available that could adequately protect the public? N/A

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that it might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer:
Randy J. Buckner
Date: 5-12-11

DATE FILED
(STAMP)

NOTICE OF INTENDED ACTION

AGENCY NAME: Department of Human Resources

RULE NO. & TITLE: 660-3-6-.08 Procedures for Handling Complaints

INTENDED ACTION: Proposed permanent rule to bring rule in line with administrative due process procedure and terminology outlined in other rules and child support policy.

SUBSTANCE OF PROPOSED ACTION: To bring rule in line with administrative due process procedure and terminology outlined in other rules and child support policy. The repayment period for improperly paid refunds is being changed from six(6) months to ninety(90) days to be in agreement with child support policy and procedure.


TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, views or arguments respecting the proposed amendment by mail or in person through close of business on July 5, 2011. Persons wishing to submit data, views or arguments orally should contact the Department's Administrative Procedures Secretary between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding State holidays, at (334) 242-1328 to set up an appointment for such oral/in-person presentations.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 5, 2011

CONTACT PERSON AT AGENCY:

Mrs. Gail Grobe
State Department of Human Resources
Gordon Persons Building
50 Ripley Street
Montgomery, Alabama 36130-1801



Nancy T. Buckner
Commissioner

660-3-6-.08 Procedures for Handling Complaints.

(1) Complaints made Prior to Offsetting the Tax Refund

(a) Noncustodial parents (or their current spouses) may file a complaint orally or in writing at any time after they receive the pre-offset notice.

(b) On receiving a complaint, the worker must conduct a case review in an effort to resolve the complaint. The noncustodial parent (or their spouse in regard to tax offset) may request an administrative review ~~hearing~~. If a joint tax refund has already been offset at the time of the complaint, the IV-D agency must refer the injured spouse to the IRS.

(c) If the review results in a deletion of, or decrease in, the amount referred for offset, the Department must notify OCSE using prescribed procedures for updates.

(2) Complaints Involving Monies Previously Collected by IRS and Transmitted to DHR for an Instate Order

(a) The Internal Revenue Service will issue notification to the noncustodial parent (and their spouse if joint return filed) that part or all of a tax refund has been received to satisfy a past-due support obligation and refer him to DHR to correct any errors or answer questions. Requests for administrative ~~review~~ ~~hearings~~ should be made in writing to the County DHR or the State DHR. Administrative ~~review~~ ~~hearings~~ ~~where necessary,~~ will be conducted in accordance with "~~Appeals and Hearings~~" hearings policy of the Department.

(b) The Department cannot conduct hearings on federal tax returns where the sole issue involves joint refunds or joint returns. These cases must be referred to IRS.

(3) Complaints Involving Monies Previously Collected by the State Department of Revenue and Transmitted to DHR for an Instate Order

(a) Noncustodial parents (and their spouse if joint return filed) have thirty (30) days from the date of mailing of the notice of offset by the State Department of Revenue to appeal. Failure of the noncustodial parent (or spouse if joint return) to apply in writing for an administrative hearing at the County Department or State Department within the thirty (30) day period will constitute a waiver of any opportunity to contest the offset. Administrative hearings will be conducted in accordance with "~~Appeals and Hearings~~" hearings policy of the Department.

(b) Taxpayers may appeal the administrative hearing decision of the Department through the courts by filing notice of appeal within thirty days after receipt of the date of notice of the final hearing decision. Notice must be filed with the Commissioner of DHR and with the clerk of register of the appropriate circuit court. Notice can be filed with the county or state Department of Human Resources office. A petition for judicial review must be filed in the circuit court in the claimant's county of residence or Montgomery County Circuit Court. A petition for judicial review must be filed within thirty days of the filing of the notice of appeal.

(c) In accordance with state law, after final determination of the debt due the State as a result of an administrative hearing (of after thirty days, if the taxpayer does not request a hearing) state tax refund monies that are due the Department or its title IV-D clients will be transferred from the escrow account (where they have been held) to the noncustodial parent's child support account. Any refund due will be issued to the taxpayer at the time monies are transferred from the escrow account.

(4) Complaints Involving Interstate Cases (Order Issued Outside Alabama)

(a) Upon receipt of a complaint from a noncustodial parent concerning a refund which may be or already has been offset, the child support worker must immediately conduct a review of the case in an effort to determine the complaint's validity.

1. If the sole issue of the complaint involved a federal joint return, the complaint should be referred to IRS.

2. If the refund has not already been offset and the certified amount is determined to be legitimately in dispute, a deletion or modification, as appropriate, must be submitted to OCSE within ten working days of the review.

3. If the refund has been offset and it is determined in the review that money is owed to the noncustodial parent, a refund to the noncustodial parent should be made promptly.

4. If the child support worker is unable to resolve a noncustodial parent's complaint and the NCP requests a review by the state which issued the order, the worker must notify the state which issued the support order within ten days of the request. OCSE must also be advised of the transfer.

(b) The state (in Alabama this will be the local child support unit) with the order must send a notice to the noncustodial parent and custodial parent of the time and place of the review, conduct the review and make a decision within 45 days of the receipt of the notice and information from the certifying state. The reviewing state must base its decision on policy considerations of the submitting state.

(c) When the review results in a deletion of, or modification in, or a change in the amount referred for offset, they must notify OCSE within ten working days of the administrative review using the regular update procedures. OCSE will confirm with the certifying state that the state with the order has deleted or modified a case due to a review. If the offset has already occurred, the state with the order must notify the submitting state of its decision and the submitting state must take steps to refund any excess amount offset to the noncustodial parent promptly. If the client has already been sent the money, he or she is to be asked to return it. He or she should be given the option to pay the full amount or arrange a payment plan to satisfy the debt within 90 days if unable to pay the full amount of refunding it in equal monthly installments over a six (6) month period. (When a review is conducted in the state with the order, the submitting state is bound by the decision made by that state. As in intrastate cases, refunds in joint return cases are payable to both parties.)

Author: Janice Grubbs

Statutory Authority: Code of Alabama 1975, §§30-4-80 through -98, 38-2-6; 38-2-6(1), 38-10-1 through -12, 40-18-100 through -109; P.L. 93-647; P.L. 98-378; §9 of P.L. 96-611; §5011 of P.L. 101-508; 42 U.S.C. 651 et seq.; 42 U.S.C. 663; 42 U.S.C. 664; 45 C.F.R. 205-235; 301-307; ALABAMA STATE PLAN – CHILD SUPPORT ENFORCEMENT PROGRAM.

History: Emergency adoption effective August 8, 1985. Permanent adoption effective November 8, 1985. Succeedent emergency amendment effective August 30, 1991. Succeedent permanent amendment effective December 10, 1991. Succeedent permanent amendment effective July 20, 1999. **Repealed:** Filed September 3, 1999; effective October 8, 1999 (**Ed. Note:** This rule was previously 660-3-6-.05). Succeedent permanent amendment effective August 5, 2011.