Maryland General Assembly
Department of Legislative Services

Proposed Regulation
Department of Human Resources
(DLS Control No. 15-255)

Overview and Legal and Fiscal Impact

The regulation repeals a $25 fee deducted by the Child Support Enforcement Administration before distributing an offset amount to a non-Temporary Cash Assistance custodial parent under the Federal Income Tax Refund Offset Program.

The regulation presents no legal issues of concern.

Fee revenues decrease by $294,570 in fiscal 2016 and by approximately $589,140 annually thereafter (of which $388,832 is federal funds and $200,308 is special funds) due to the repeal of the $25 maximum fee that is deducted by the Child Support Enforcement Administration prior to distributing an offset amount to a non-Temporary Cash Assistance custodial parent under the Federal Income Tax Refund Offset Program.

Regulation of COMAR Affected

Department of Human Resources:
Child Support Enforcement Administration: Federal Income Tax Refund Offset Program: COMAR 07.07.09.05

Legal Analysis

Background

On September 15, 2015, Governor Larry Hogan announced a plan to reduce or eliminate a number of fees across State government. This regulation is part of that plan. Additional information regarding Governor Hogan's fee reduction initiative may be found here.

Federal law requires the Secretary of the U.S. Treasury to withhold from an individual's federal income tax refund the amount of past-due child support certified by a state child support enforcement agency if the amount of arrears is $500 or more in a case in which the child support enforcement agency is providing support enforcement services for a custodial parent who does not receive Temporary Cash Assistance (TCA). Federal regulations authorize a state child support enforcement agency to charge the custodial parent a fee not to exceed $25 for submitting past-due support for federal tax refund offset.

Summary of Regulation

The regulation repeals COMAR 07.07.09.05B, which requires the Child Support Enforcement Administration to deduct a fee of $25 before distributing an offset amount to a non-TCA custodial parent under the Federal Income Tax Refund Offset Program and prohibits the fee from exceeding 25% of the amount to be distributed.

Legal Issue

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The Secretary of Human Resources cites §§ 10-113 and 10-114 of the Family Law Article and 45 CFR § 303.72 as statutory authority for the regulations. More specifically, § 10-114(a)(1) requires the Secretary of Human Resources to adopt rules and regulations for the collection of support. 45 CFR § 303.72 sets forth requirements for collection of past due support by federal tax refund offset and includes authorization for the $25 fee. The remaining cited authority is not relevant for this regulation.

With the addition of § 10-110 of the Family Law Article, which authorizes the Child Support Enforcement Administration to deduct from child support payments to defray the cost of providing support enforcement services under the Federal Treasury Offset Program, and 42 U.S.C. § 664, which provides the underlying statutory authority for the federal regulation, the relevant cited authority is correct and complete.

The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

In response to suggestions from the Department of Legislative Services, the Department of Human Resources has agreed to add § 10-110 of the Family Law Article and 42 U.S.C. § 664 and to delete § 10-113 of the Family Law Article as legal authority for the regulations. In addition, the department will change incorrect references to the "Family Income Tax Refund Offset Program" to the "Federal Income Tax Refund Offset Program" in the Notice of Proposed Action and the Statement of Purpose.

Fiscal Analysis

Fee revenues decrease by $294,570 in fiscal 2016 and by approximately $589,140 annually thereafter (of which $388,832 is federal funds and $200,308 is special funds) due to the repeal of the $25 maximum fee that is deducted by the Child Support Enforcement Administration prior to distributing an offset amount to a non-Temporary Cash Assistance custodial parent under the Federal Income Tax Refund Offset Program.

Agency Estimate of Projected Fiscal Impact

Although the department initially advised otherwise, the department now advises that elimination of the fee affects both federal and special fund revenues by a total $589,140 annually. This estimate is based on actual revenues obtained from the fee in fiscal 2015. Because the department estimates that the fee repeal will take effect January 1, 2016, the revenue decrease in fiscal 2016 is estimated at only $294,570 ($194,416 federal funds and $100,154 special funds). The Department of Legislative concurs.

Impact on Budget

There is no material impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Additional Comments

The department advises that the repeal of the fee results in more money going to Maryland families with children without impacting operations within the Child Support Enforcement Administration.

Contact Information

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