

George E. Pataki
Governor

NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
40 NORTH PEARL STREET
ALBANY, NY 12243-0001

Robert Doar
Commissioner

[Date]

[Name of Debtor]
[Address of Debtor]
[Address of Debtor]
[City, State, Zip of Debtor]

Re: Past Overpayment of Food Stamps
Account/Case No.: [Account No.]
Social Security No.: [Social Security No.]

Dear [Name of Debtor]:

The New York State Office of Temporary and Disability Assistance ("OTDA") has determined, based upon the records of your local social service district, that you owe OTDA for a past overpayment of food stamp benefits in the amount below.

Why Your Debt May Be Submitted to the Treasury Offset Program:

The records of your local social service district show that your household was previously sent notice(s) advising you about the claim(s) that make up your debt, including the right to a fair hearing on the claims(s). These records show that you owe a debt for the following food stamp overpayment:

Period of Overpayment: [Period(s) of Overpayment]
Balance Due Now: [Balance Now Due]
Reason for Overpayment: [Reason for Overpayment]

You have not paid the amount owed to OTDA. If you do not pay the debt now, enter into an installment plan to pay the debt and make payments required in the plan, or ask for a review as described below before 60 days from the date of this letter, OTDA will submit your debt to the U.S. Department of the Treasury ("Treasury") for collection through the Treasury Offset Program ("TOP"). If your debt is submitted to TOP, Treasury will take all or part of your eligible federal payments up to the amount of your debt. If your debt is submitted to TOP, Treasury may also add processing charges related to the offset of your debt.

Should You Ask for a Review?

Under certain circumstances we should not submit your debt to Treasury for offset under TOP. If any of the following apply, your debt should not be referred to TOP and you should request a review:

1. You are currently receiving food stamps;
2. We never sent you a notice about this debt with an opportunity to contest it at a fair hearing;
3. You are under an acceptable repayment agreement and are making agreed payments, your wages are being garnished to repay the debt, or you have already paid back all the debt;
4. You filed for bankruptcy and the automatic bankruptcy stay is in effect (if this applies, you should send us documents showing that bankruptcy is pending);

5. Your debt is currently in litigation;
6. Your debt is more than ten years old, unless it is covered by a court judgment;
7. Your debt is less than the minimum amount acceptable by Treasury, which is currently \$25.

If your debt is submitted to TOP, Treasury will take as much money as necessary to pay your debt out of federal payments that would otherwise be paid to you. This process is known as offset and is authorized by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, and applicable Food Stamp Program regulations. Once your debt is submitted to Treasury, it will remain in the system until it is paid in full or until it is no longer eligible for offset. For example, every year your tax refund may be taken until your debt is paid. This is your notice that such payments may be offset through TOP to pay your debt. You might not receive another notice prior to the offset of federal payments to pay your debt.

What Federal Payments May Be Taken?

Federal payments that may be taken to pay off your debt under TOP include:

- Your income tax refund, including any earned income tax credit payment you may be due (see Attachment A for additional information);
- Up to 15% of your federal salary pay, including military pay (see Attachment A for additional information, including how to request a waiver of this type of offset);
- Up to 25% of your federal retirement pay;
- Your military retirement pay;
- Your contractor/vendor payments;
- Other federal payments, including certain loans to you, that are not exempt from offset, and;
- Federal benefit payments such as Social Security (see Attachment A for additional information).

What Can You Do to Avoid Referral to TOP?

To avoid having your debt referred to Treasury for offset through TOP, you must do one of the following things by 60 days from the date of this letter:

- Pay your debt by sending a check or money order payable to [social services district] for the full amount that you owe in an envelope addressed to:

[payment address and phone no.]

Or

- Agree to a repayment plan by contacting the social services district named in the previous sentence and entering into an agreement acceptable to it and making the payments as required in the plan; or
- Request a review if you believe that you do not owe the debt, that the amount of the debt is incorrect, or that your debt should not be referred to TOP for one of the circumstances listed above.

How to Ask for a Review

If you want to request a review, you must send a letter within 60 days from the date of this notice, explaining the reasons why you believe your debt should not be submitted to TOP, together with copies of any documents or other evidence you have supporting your defense. Your letter should be addressed and sent to:

New York State OTDA
ATTN: TOP Appeals
Riverview Center
40 North Pearl Street
Albany, New York 12243

We will not submit your debt to TOP while it is under review and we will inform you of our decision about your debt in writing.

If you have any questions about this letter, want more information about your debt, or if you want to inspect and copy the records of your local social service district related to your debt, you may contact the social services district named above. However, simply contacting the social services district is not the same as making a written request for review as described above, and will not stop us from submitting your debt to Treasury for offset under TOP.

As stated above, once your debt has been submitted to TOP, it will remain in the system until it is paid in full or no longer is eligible for offset. If any of the circumstances numbered above apply to you in the future, you should contact us so that we may determine whether your debt should be removed from TOP. We may also seek to collect the balance of the debt through any other permissible collection methods.

If you make or provide any knowingly false or frivolous statements, representations, or evidence, you may be liable for penalties under the False Claims Act (31 U.S.C. § 3729-31), or other applicable statutes, and/or criminal penalties under (18 U.S.C. § 286, 287, 1001 and 1002), or other applicable statutes.

Attachment A

If you file a joint income tax return: If you file a joint income tax return and your spouse was not a member of the food stamp household at the time the over-payment occurred, you should contact the Internal Revenue Service before filing your return regarding the steps to take to protect the share of the income tax refund which may be payable to your spouse, who is not a delinquent debtor to the U. S. Government.

If you are a Federal employee:

Your current net disposable pay is subject to offset if you do not pay your debt or take other action described above. Under the TOP, Treasury will deduct up to 15% of your disposable net pay beginning in the pay period that your debt is submitted for Federal salary or wage offset and continuing every pay period until your debt plus fees, penalties, or other charges is paid in full.

When you are identified through TOP as receiving a federal salary or wage, you will be entitled to a hearing to dispute the existence or amount of the debt, or the amount of the payroll deduction. You will be provided information on where to file a written request for a hearing when you have been identified through TOP as receiving a federal salary or wage.

The timely filing of a petition for hearing will stay the commencement of offset proceedings for federal salary and wage offset; however, it will not stop offset of other types of federal payments. A final decision on the hearing (if one is requested) will be issued no later than 60 days after the filing of a petition requesting the hearing (unless extended by the hearing official).

As a federal employee, if you make or provide any knowingly false or frivolous statements, representations, or evidence, in addition to other penalties, you may be subject to disciplinary actions.