

**§3813. Notice to repay**

**1. Repayment.** The department may serve a notice to repay upon an individual or other member of an assistance unit that received an overpayment that has not been recouped, repaid or otherwise recovered by the department if the individual or other member of the assistance unit no longer receives benefits from the benefit program that issued the overpayment.

[PL 1993, c. 654, §1 (NEW).]

**2. Notice.** A notice to repay must state the following:

A. The name of the obligor; [PL 1993, c. 654, §1 (NEW).]

B. The amount of the overpayment, when the overpayment was made and when it was established; [PL 1993, c. 654, §1 (NEW).]

C. The name of the benefit program that issued the overpayment; [PL 1993, c. 654, §1 (NEW).]

D. The amount of the overpayment that has not been recouped, repaid or otherwise recovered by the department; [PL 1993, c. 654, §1 (NEW).]

E. That the obligor may contact the department to execute an assignment of earnings or enter into an agreement to repay the overpayment that has not been recouped, repaid or otherwise recovered by the department; [PL 1993, c. 654, §1 (NEW).]

F. That if the amount of the overpayment that has not been recouped, repaid or otherwise recovered by the department is not repaid within 21 days, the department may collect the amount owed by income withholding, may file liens against the obligor's real and personal property for the amount owed and may report the obligor to a consumer credit reporting agency; and [PL 1993, c. 654, §1 (NEW).]

G. That the obligor has the right to request a hearing within 21 days of service of the notice and that if the obligor requests a hearing, collection action is stayed pending a decision after hearing. [PL 1993, c. 654, §1 (NEW).]

[PL 1993, c. 654, §1 (NEW).]

**3. Collection action.** The department may use the remedies available under this chapter to collect the amount of an overpayment that has not been recouped, repaid or otherwise recovered by the department 21 days after service of a notice to repay, unless the obligor timely requests a hearing. The department may execute an assignment of earnings with the obligor's consent at any time for repayment of the amount of an overpayment that has not been recouped, repaid or otherwise recovered by the department.

[PL 1993, c. 654, §1 (NEW).]

**4. Hearing.** An obligor served with a notice to repay may request a hearing within 21 days of the date of service of the notice. The obligor may contest at hearing the accuracy of the notice to repay and whether the notice was issued in accordance with the requirements of this section. The obligor may not contest the amount of an overpayment that the obligor previously had an opportunity to contest or the amount of an overpayment that was established by judicial or administrative action, by agreement of the obligor and the department or by operation of law. The obligor may raise the issue of and the department shall determine whether the obligor is entitled to receive any credits, including credits for underpayments, that would reduce the amount of the overpayment that has not been recouped, repaid or otherwise recovered by the department. The department shall conduct the hearing in accordance with the requirements of Title 5, chapter 375, subchapter IV.

[PL 1993, c. 654, §1 (NEW).]

**5. Decision after hearing.** The department shall render a decision after hearing without undue delay. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must include a finding of the amount of the overpayment that has not been recouped, repaid

or otherwise recovered by the department. The decision must inform the obligor that the obligor may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send an attested copy of the decision to the obligor by regular mail to the obligor's most recent address of record. If the finding contained in the decision is that the obligor has received an overpayment that has not been recouped, repaid or otherwise recovered by the department, the department may use the remedies available under this chapter to collect the amount not recouped, repaid or otherwise recovered 30 days after the decision is issued.

[PL 1993, c. 654, §1 (NEW).]

**6. Stay.** If the obligor named in a notice to repay timely requests a hearing to contest the notice to repay, the department shall stay all collection action pending a decision after hearing.

[PL 1993, c. 654, §1 (NEW).]

#### SECTION HISTORY

PL 1993, c. 654, §1 (NEW).

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