

ADMINISTRATIVE APPEALS

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INTRODUCTION

GENERAL INFORMATION

Appeals of certain actions taken by a CSS agency are conducted through administrative processes. The NC Office of Administrative Hearings (OAH) hears federal and State tax intercept (offset), administrative offset, credit bureau reporting, and distribution of funds appeals.

This chapter contains information on the following topics:

1. [Federal or State tax intercept \(offset\) and administrative offset appeals;](#)
2. [Consumer credit bureau reporting appeals;](#)
3. [Distribution appeals.](#)
4. [Passport appeals.](#)

FEDERAL OR STATE TAX INTERCEPT (OFFSET) AND ADMINISTRATIVE OFFSET APPEALS

GENERAL INFORMATION

This topic contains information on the following subjects:

1. [Federal/state tax intercept and administrative offset time frames;](#)
2. [Federal tax intercept and administrative offset appeal request procedures;](#)
3. [Preparation for a tax intercept and/or administrative offset appeal hearing;](#)
4. [Tax intercept and/or administrative offset appeal decisions;](#)
5. [The effects of tax intercept and/or administrative offset appeals on CSS case processing;](#)
6. [Cancellation of a tax intercept and/or administrative offset appeal hearing;](#)
7. [Appealing a tax intercept and/or administrative offset hearing decision;](#)
8. [Federal tax intercepts that are being appealed in another state.](#)

FEDERAL/STATE TAX INTERCEPT AND ADMINISTRATIVE OFFSET APPEAL TIME FRAMES

Upon receipt of the Pre-Offset Notice (DSS-4495), the noncustodial parent (NCP) has sixty (60) days from the date of the notice to apply in writing for a hearing to contest the submittal of his/her case for federal/ state tax intercept and/or administrative offset. When the NCP's refund is received from the NC Department of Revenue (DOR), the Notice To Debtor (DSS-4496) is automatically sent, and the NCP has an additional thirty (30) days from the date of the Notice To Debtor to contest the state tax intercept. Failure by the NCP to make a timely application for a hearing via a Petition To Appeal/Request A Hearing

to the Office of Administrative Hearings (OAH) is deemed a waiver of the opportunity to appeal.

FEDERAL TAX INTERCEPT/ADMINISTRATIVE OFFSET APPEAL REQUEST PROCEDURES

When a noncustodial parent (NCP) receives the Pre-Offset Notice (DSS-4495) or the Notice To Debtor (DSS-4496) and elects to appeal the tax intercept (offset) and/or administrative offset, the following procedure is used:

1. The NCP must submit a Petition To Appeal Tax Intercept/Contested Case Hearing (DSS-4659) to the Office of Administrative Hearings (OAH) and send a copy of the Petition to the Secretary of the Department of Health and Human Services (DHHS). Both the DSS-4495 and the DSS-4496 notices contain the mailing addresses of these agencies. Health and Human Services (DHHS). If the NCP contacts local CSS to request the appeal hearing, CSS can generate the Petition To Appeal Tax Intercept (DSS-4659) and provide the NCP with the printed document, but CSS CANNOT assist the NCP with completing or mailing the Petition to OAH. (Instructions for completing and submitting this document are in the Petition.)
2. When the CSS Central Office receives the copy of the Petition, a State Tax Intercept Unit worker indicates the receipt and the fact that the appeal will be held in-state by documenting these facts in ACTS.
3. OAH notifies the State CSS Attorney where and when the appeal hearing is scheduled. The State CSS Attorney then notifies the State Tax Intercept Unit to schedule the hearing in ACTS.
4. OAH notifies the NCP of the location, date, and time of the appeal hearing. If the case is Non-TANF/Medicaid, the custodial parent (CP) is also notified of the hearing's location, date, and time.
5. OAH holds the hearing. An appeal decision should be made within forty-five (45) days after the receipt of the Notice and documentation.

Also see the "[Federal Tax Intercept \(Offset\) Being Appealed In Another State](#)" section.

PREPARATION FOR A TAX INTERCEPT/ADMINISTRATIVE OFFSET APPEAL HEARING

It is extremely important that the local CSS agency be fully prepared for the tax intercept and/or administrative offset hearing. Upon notification from the Attorney General's Office that an appeal has been filed, local CSS must provide the necessary information and documentation to the State CSS Attorney immediately and document in the case record that the information was sent. Such information can include:

1. The names of the noncustodial parent (NCP) and custodial parent (CP) for the case;

2. CSS case (IV-D) number;
3. Case status;
4. Certified copies of the court order for support and any modifications;
5. Certified copies of ACTS payment records.

It is permissible to send non-certified copies initially. When necessary, the State CSS Attorney will request certified copies for the hearing or for a Motion For Summary Judgment.

Local CSS must provide the State CSS Attorney with a case summary. This summary should include information relevant to the court order, any modifications to the original order, payment history, enforcement attempts to recover arrearages, attempts to resolve the issue of whether or not the case is appropriate for tax intercept, etc.

TAX INTERCEPT/ADMINISTRATIVE OFFSET APPEAL DECISION

When the Office of Administrative Hearings (OAH) completes a hearing, the administrative law judge makes a recommended decision, which is forwarded to the Chief of Hearings and Appeals for a final decision. OAH notifies the noncustodial parent (NCP) along with the State CSS Attorney of the final decision. If the NCP decides to appeal that decision, he/she has thirty (30) days to appeal to the Superior Court in Wake County or the NCP's county of residence.

The State CSS Attorney notifies the Tax Intercept Unit at the CSS Central Office and the local CSS agency of the final decision after the appeal period ends. A Tax Intercept Unit worker documents the results of the appeal in ACTS.

EFFECTS OF A TAX INTERCEPT/ADMINISTRATIVE OFFSET APPEAL ON CASE PROCESSING

When a tax intercept appeal is filed, a Tax Intercept Unit worker at the CSS Central Office makes changes in ACTS to ensure that intercept monies are not distributed while the appeal is pending. The Tax Intercept Unit worker schedules the appeal hearing in ACTS and, when the appeal is resolved, makes changes in ACTS that allow the intercept to proceed, be modified, or terminated.

The type of appeal hearing is based upon the type of intercept appeal (federal tax, state tax, or administrative offset). Once the appeal hearing has taken place and the decision is made, the result must be entered for the scheduled appeal hearing and that scheduled appeal hearing must be deleted.

The hearing result should not be entered in ACTS until thirty (30) days after the notice of hearing results have been provided to all parties. This allows for the 30-day time period that the CSS agency and noncustodial parent (NCP) have to appeal the administrative decision.

CANCELLATION OF TAX INTERCEPT/ADMINISTRATIVE OFFSET APPEAL HEARING

If local CSS is able to resolve a case prior to a hearing, prompt notice should be given to the Tax Intercept Unit. The Tax Intercept Unit then notifies the State CSS Attorney that the need for a hearing has been eliminated.

In order to avoid unnecessary scheduling, it is important that OAH receive such notice at the earliest possible time. It is preferable that the noncustodial parent (NCP) submit a written statement withdrawing the request for a hearing. However, if verbal notice is given that an appeal has been withdrawn, local CSS should submit a written notice to the Tax Intercept Unit, which then forwards this notice to the State CSS attorney, signed by either the NCP or the responsible CSS caseworker to confirm that the appeal was withdrawn. The Tax Intercept Unit must take the necessary actions to release the NCP's tax refund.

If an appeal is resolved prior to a hearing, the State Tax Intercept Unit worker who scheduled the appeal hearing in ACTS should delete the scheduled hearing by entering the appropriate disposition.

APPEAL OF A TAX INTERCEPT/ADMINISTRATIVE OFFSET HEARING DECISION

Once a final decision is rendered by the Chief Hearing Officer, local CSS or the noncustodial parent (NCP) has an opportunity to file an appeal of the administrative decisions within thirty (30) days of the decision date.

An appeal of the final decision of the Chief Hearing Officer must be held in Wake County Superior Court or in the NCP's county of residence as prescribed by NCGS 150B-45.

If the administrative decision is appealed, the Tax Intercept Unit worker should not enter a disposition for the scheduled appeal hearing until after the appeal is heard and decided by the court.

FEDERAL TAX INTERCEPT (OFFSET) BEING APPEALED IN ANOTHER STATE

The noncustodial parent (NCP) must file the federal tax intercept appeal in the state that submitted the intercept to the Financial Management Service (FMS). If the NCP disagrees, the NCP can file an appeal in the state with the child support order. If the NCP informs the local CSS caseworker that he/she wants to file a tax intercept appeal in the order state, the hearing is held in that state. The local caseworker should advise the NCP that the request must be in writing.

Once the NCP requests a Petition to Appeal Tax Intercept/Contested Case Hearing (DSS-4659) and submits the Petition to the Office of Administrative Hearings (OAH), a copy is sent to the Secretary of the Department of Health and Human Services and the CSS Central Office. The NCP is informed of this agency and its address in the Pre-Offset Notice (DSS-4495) and/or in the Notice To Debtor (DSS-4496).

The Office of Administrative Hearing (OAH) notifies the Attorney General's Office that the NCP has requested an administrative appeal hearing in the order state. The State CSS Attorney should immediately send a memorandum to the local CSS office requesting that the appeal be documented in ACTS. This memorandum also requests that specific documents such as a copy of the order and any modifications, a copy of the payment record, and in Non-Public Assistance and Medicaid cases, the custodial parent's (CP's) address be forwarded to the Attorney General's Office within twenty (20) days.

The Attorney General's office forwards all necessary paperwork to the Central Registry. The Central Registry generates and sends a CSE Transmittal #1 (DSS-4556) along with the appropriate documents to the Central Registry of the order state. This Transmittal informs the responding state of the name of the responsible caseworker. The Central Registry also informs the responsible local caseworker of the appeal and administrative review.

If the order state is a CSENet state, the request for administrative tax hearing is automatic once the local caseworker documents the appeal in ACTS.

NOTE: The CSENet state must have Enforcement functionality; otherwise, the manual transmission of the CSE Transmittal #1 (DSS-4556) is necessary.

The responding state must notify the NCP of the location, date, and time of the hearing. In Non-Public Assistance and Medicaid cases, the CP must also be notified of the location, date, and time of the hearing.

The responding state must make a decision within forty-five (45) days of the receipt of the documents and information from the submitting state.

CONSUMER CREDIT REPORTING APPEALS

GENERAL INFORMATION

This topic contains information on the following subjects:

1. [Consumer credit reporting appeal time frames;](#)
2. [Processing consumer credit reporting appeals;](#)
3. [Scheduling a consumer credit reporting appeal hearing;](#)
4. [Preparation for a consumer credit reporting appeal hearing;](#)
5. [Consumer credit reporting appeal decisions;](#)
6. [The effects of consumer credit reporting appeals on CSS case processing;](#)
7. [Cancellation of a consumer credit reporting appeal hearing;](#)
8. [Appealing an administrative consumer credit reporting hearing decision.](#)

CONSUMER CREDIT REPORTING APPEAL TIME FRAMES

The noncustodial parent (NCP) has sixty (60) days from the date of the Consumer Credit Reporting Notice (DSS-4478) to file a notice of appeal. Failure of the NCP to make a timely application for a hearing in writing is deemed a waiver of the opportunity to appeal.

PROCESSING CONSUMER CREDIT REPORTING APPEALS

When an NCP wants to appeal consumer credit reporting, the following procedures are used:

1. The noncustodial parent (NCP) obtains a Petition To Appeal Tradeline/Credit Bureau Reporting (DSS-4723);
2. The NCP must submit an original and one (1) copy of the Petition to Appeal Tradeline/Credit Bureau Reporting (DSS-4723) to the Office of Administrative Hearings (OAH). A copy must also be served on the process agent for the Department of Health and Human Services (DHHS). The mailing addresses for these offices are:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714

Emery Edwards Milliken
NC Department of Health and Human Services
2001 Mail Service Center
Raleigh, NC 27699-2001

Mailing instructions are included on the appeal form.

If the NCP contacts local CSS to request the appeal hearing, CSS can generate the Petition To Appeal Tradeline/ Credit Bureau Reporting (DSS-4723) and provide the NCP with the printed document, but CSS CANNOT assist the NCP with completing or mailing the Petition to OAH. (Instructions for completing and submitting this document are in the Petition.)

3. DHHS provides a copy of the petition to the State CSS Attorney who handles consumer credit reporting appeals for county/local CSS agencies.
4. OAH notifies the State CSS Attorney, the NCP, and the NCP's legal representative (if one has been selected) of the location and date of the hearing. This notice is sent by certified mail to all parties.
5. The State CSS Attorney notifies the Credit Bureau Coordinator of the location and date of the hearing. The Credit Bureau Coordinator at the CSS Central Office is responsible for updating ACTS.
6. The Credit Bureau Coordinator schedules the appeal hearing in ACTS.
7. The hearing is held by OAH.

8. When the appeal is resolved, the order is allowed to be submitted or not submitted.

SCHEDULING A CONSUMER CREDIT REPORTING APPEAL HEARING

The Distribution Unit workers at the CSS Central Office are responsible for scheduling the Consumer Credit Reporting Appeal hearing in ACTS.

PREPARATION FOR A CONSUMER CREDIT REPORTING APPEAL

After reviewing the case, the State CSS Attorney requests any documentation that is needed from the local CSS agency. This requested documentation should be forwarded to the State CSS Attorney immediately. The responsible local CSS caseworker could be asked to submit an affidavit or to appear in person at the appeal hearing.

NOTE: The local caseworker has qualified immunity if he/she has exercised "due diligence" to ensure the accuracy of the arrearages and other documentation.

CONSUMER CREDIT REPORTING APPEAL DECISION

When an appeal decision is reached, the State CSS Attorney reports the decision to the Credit Bureau Coordinator at the CSS Central Office and to the local CSS agency.

After receiving the appeal decision, the Credit Bureau Coordinator must enter a disposition on the appeal hearing (by deleting the hearing.)

The disposition should not be entered until thirty (30) days after the hearing date to allow for the 30-day time period that the CSS agency and the noncustodial parent (NCP) have to appeal the administrative decision.

EFFECT OF A CONSUMER CREDIT REPORTING APPEAL ON CASE PROCESSING

When a consumer credit reporting appeal is filed, the responsible local caseworkers must update ACTS. Once updated, ACTS does not include information about a noncustodial parent's (NCP's) case that is being appealed on the tape to the credit reporting agencies. When the appeal is resolved, the order is then allowed to be submitted or not be submitted.

When the CSS Central Office Intercept Unit workers are notified of the consumer credit reporting appeal, they must immediately advise the responsible local caseworker that a consumer credit reporting appeal has been received.

CANCELLATION OF THE CONSUMER CREDIT REPORTING APPEAL

If local CSS is able to resolve a case prior to a hearing, the State CSS Attorney should be given prompt written notice that the need for a hearing has been eliminated.

To avoid unnecessary scheduling, it is important that the Office of Administrative Hearings (OAH) receive notice that a hearing is not needed as soon as is possible. If the noncustodial parent (NCP) gives verbal notice, the NCP should be advised to submit this notice in writing to confirm that he/she is withdrawing the appeal. If the NCP submits this notice in writing to the local CSS agency, the local agency should notify the State CSS Attorney immediately.

If the NCP notifies the local CSS agency verbally that he/she is withdrawing the appeal but fails to confirm this in writing, the local agency should immediately advise the State CSS Attorney.

APPEAL OF ADMINISTRATIVE CONSUMER CREDIT REPORTING HEARING DECISION

Once a final decision is obtained, the State CSS Agency or the noncustodial parent (NCP) has the opportunity to file an appeal of the administrative decision within thirty (30) days.

DISTRIBUTION APPEALS

PROCESSING DISTRIBUTION APPEALS

The custodial parent (CP) and noncustodial parent (NCP) are informed at various stages during the processing of the case of their right to appeal the distribution of funds, including when IV-A provides the CP with program information and when the NCP receives payment instructions and bills. No time limit exists for filing a distribution appeal.

Because the petitioner is appealing past distribution of funds, the filing of a distribution appeal has no immediate effect on distribution.

When NCPs or CPs want to appeal how collections were distributed for a case, the following procedures are used:

1. The CSS caseworker documents in ACTS that a distribution appeal hearing has been requested`.
2. CSS generates a and provides the Petition To Contest Distribution (DSS-4722) document to the appealing party, known as the "petitioner", to complete, but CSS CANNOT assist the petitioner with completing or mailing the document to OAH. (Instructions for completing and submitting this document are in the Petition.) The petitioner submits the DSS-4722 directly to the Office of Administrative Hearings (OAH) and sends a copy to the Secretary of the Department of Health and Human Services (DHHS).

OAH conducts the hearing and notifies the petitioner and the Assistant Attorney General of the results of the appeal. The Assistant Attorney

General notifies the CSS Central Office of the results of the appeal. If the decision is in favor of the State, no action is required. If the decision is in favor of the petitioner, the CSS Central Office makes adjustments to the case based on the decision.

If the final decision is in favor of the state, no notification to any other participant is necessary. If the final decision is in favor of the petitioner, the CSS Central Office examines every case on which the petitioner is the active CP or NCP who is ordered to pay support. If any adjustment made in reaction to a distribution appeal has an impact on another party to the case, the CSS Central Office works with the local CSS office to notify the other party of the effect of the adjustment.

Once a final decision is obtained, the petitioner and the state have thirty (30) days to file an appeal of the administrative decision with the DSS Hearings and Appeals office.

PASSPORT APPEALS

GENERAL INFORMATION

This topic contains information on the following subjects:

1. [Passport appeal time frames;](#)
2. [Processing passport appeals;](#)
3. [Preparation for a passport appeal hearing;](#)
4. [Passport appeal decisions.](#)

PASSPORT APPEAL TIME FRAMES

Upon receipt of the Pre-Offset Notice (DSS-4495), the noncustodial parent (NCP) has sixty (60) days from the date of the notice to apply in writing for a hearing to contest the submittal of the CSS case for passport denial. Failure by the NCP to make a timely application for a hearing via a Petition For A Contested Case and Certificate of Service to the Office of Administrative Hearings (OAH) is deemed a waiver of the opportunity to appeal to OAH.

PROCESSING PASSPORT APPEALS

When a noncustodial parent (NCP) receives the Pre-Offset Notice (DSS-4495) and elects to appeal the passport denial, CSS workers follow this procedure:

1. The NCP must submit a Petition For A Contested Case and Certificate of Service (DSS-4659) to the NC Office of Administrative Hearings (OAH). The NCP also must send a copy of the Petition to the Department Of Health and Human Services (DHHS). The DSS-4495 contains the mailing addresses of these agencies.

If the NCP contacts local CSS to request the appeal hearing, CSS generates and provides the NCP with a printed copy of the Petition For A Contested Case and Certificate of Service (DSS-4659) document. CSS DOES assist the NCP with completing or

mailing this Petition to OAH. (Instructions for completing and submitting this document are in the Petition.)

2. When the CSS Central Office receives the copy of the Petition, a Tax Intercept Unit worker documents the request to appeal passport denial in the case history.
3. OAH notifies the State CSS Attorney where and when the appeal hearing is scheduled.
4. OAH notifies the NCP and CP of the location, date, and time of the appeal hearing.
5. OAH holds the hearing. An appeal decision should be made within forty-five (45) days after the receipt of the Notice and documentation.
6. When the CSS Central Office receives the final decision, a Tax Intercept Unit worker documents the Decision in the case history.

PREPARATION FOR A PASSPORT APPEAL HEARING

The local CSS agency must be fully prepared for the passport denial hearing. Upon notification from the Attorney General's Office that an appeal has been filed, local CSS must provide the necessary information and documentation to the State CSS Attorney immediately and document in the case record that the information was sent. Such information can include:

1. The names of the noncustodial parent (NCP) and the custodial parent (CP) for the case;
2. CSS case (IV-D) number;
3. Case status;
4. Certified copies of the court order for support and any modifications;
5. Certified copies of ACTS payment records.; the State CSS Attorney

Local CSS must provide the State CSS Attorney with a case summary. This summary should include information relevant to the court order, any modifications to the original order, payment history, enforcement attempts to recover arrearages, attempts to resolve the issue of whether or not the case is appropriate for passport denial, etc. CSS workers must document that information has been provided and the date it was sent in the case record.

PASSPORT APPEAL DECISIONS

When a noncustodial parent (NCP) prevails in a passport denial hearing and no further appeals are filed, the Tax Intercept Unit must:

1. Change the PASSPORT DENIAL IND field for the NCP from "Y" (Yes) to "N" (No) in ACTS.

2. Record the Attorney General's request that the NCP's name be removed from the passport denial file in the case history, including the reason for reinstatement.
3. Request that OCSE remove the NCP's name from the passport denial file. OCSE notifies the Department of State when the restriction has been lifted.

If the arrearage was correctly certified, CSS takes no further action.

END

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