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DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 20

RIN 1290-AA27

Administrative Wage Garnishment Procedures

AGENCY: Office of the Secretary, Labor.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule will allow the U.S. Department of Labor (Department) to garnish the disposable wages of non-federal workers who are indebted to the Department without first obtaining a court order. It implements the administrative wage garnishment provisions contained in the Debt Collection Improvement Act of 1996 (DCIA) in accordance with the regulations issued by the Secretary of the Treasury.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments must be received within 30 days of publication, which is on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit written comments to the docket using any one of the following methods:

- (1) Federal eRulemaking Portal: <http://www.regulations.gov>.
- (2) Mail: Address comments concerning this interim rule to Shelia Alexander, Office of Chief Financial Officer, U.S. Department of Labor, Frances Perkins Building, Room S4030, 200 Constitution Avenue NW, Washington, DC 20210.
- (3) Email: Comments may also be submitted by electronic mail to [alexander.shelia@dol.gov](mailto:alexander.shelia@dol.gov).

Additionally, any comments that concern information collection may be sent to the Office of Information and Regulatory Affairs, Attention OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Shelia Alexander, Office of the Chief Financial Officer, (202) 693-4472; or Rachel Rikleen, Office of the Solicitor, (202) 693-5702.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 31001(o) of the Debt Collection Improvement Act of 1996 (DCIA), which is codified at 31 U.S.C. 3720D, authorizes federal agencies to use administrative procedure to garnish the disposable pay of an individual to collect delinquent non-tax

debt owed to the United States in accordance with regulations promulgated by the Secretary of the Treasury. Wage garnishment is a process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor pursuant to a withholding order. Under the DCIA, agencies may garnish up to 15% of a delinquent non-tax debtor's disposable wages. Prior to the enactment of the DCIA, agencies were generally required to obtain a court judgment before garnishing the wages of non-Federal employees.

The DCIA requires the Secretary of the Treasury to issue regulations implementing the administrative wage garnishment requirements. These implementing regulations, which are at 31 CFR 285.11, provide for due process for nontax debtors and require agencies to publish regulations for administrative wage garnishment hearings. Pursuant to 31 CFR 285.11(f), federal agencies must either prescribe regulations for the conduct of an administrative wage garnishment hearing consistent with the procedures set forth in section 285.11 or adopt section 285.11 without change by reference. Through this rule, the Department has decided to issue its own regulations consistent with the procedural requirements of section 285.11.

This interim rule governs only administrative wage garnishment. Nothing in this regulation precludes the use of collection remedies not contained in the regulation. The Department and other federal agencies may simultaneously use multiple collection remedies to collect a debt, except as prohibited by law.

The Department may, but is not required to, promulgate additional policies, procedures, and understandings consistent with this regulation and other applicable Federal laws, policies, and procedures, subject to the approval of the Department's Chief

Financial Officer or their delegate. The Department does not intend for its components, agencies, and entities to be able to adopt different policies, procedures, or understandings.

## II. Public Participation

The Department is issuing this interim final rule to provide the public with an opportunity to comment. The Department must receive comments by the deadline stated above, which is no later than 30 days after this notice appears in the Federal Register.

## III. Compliance with the Administrative Procedure Act; The Paperwork Reduction Act; The Regulatory Flexibility Act; The Unfunded Mandates Reform Act; and Executive Orders 12866, 12988, And 13132

For purposes of the Administrative Procedure Act, 5 U.S.C. 551-559, this rule involves an agency procedure or practice, and therefore no notice of proposed rulemaking is required under section 553. Nonetheless, this is an interim rulemaking, with a provision for a 30-day public comment period. The Department will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as final.

The Department has determined that this rule contains no collection of information subject to the Paperwork Reduction Act, 44 U.S.C. 3501-3521. However, the Department specifically invites comments on this determination. In addition to having an opportunity to file comments with the Department, comments about the paperwork implications of the proposed regulations may be addressed to the Office of Management and Budget (OMB). Comments to the OMB should be directed to: Office

of Information and Regulatory Affairs, Attention OMB Desk Officer for the DOL, Office of Management and Budget, Room 10235, Washington, DC 20503; Telephone: 202-395-7316/Fax: 202-395-6974 (these are not toll-free numbers). You can also submit comments to the OMB by email at [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov). The OMB will consider all written comments that agency receives within 30 days of publication of this rule. (Commenters are encouraged, but not required, to send a courtesy copy of any comments submitted to the OMB regarding the information collections by mail or courier to: U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; or by email: [DOL\\_PRA\\_PUBLIC@dol.gov](mailto:DOL_PRA_PUBLIC@dol.gov).) As previously indicated, written comments directed to the Department may be submitted within 30 days of publication of this notice. Should a commenter believe this rule contains a covered information collection, then the Department and OMB seek comments that:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic,

mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, requires administrative agencies to consider the effect of their actions on small entities, including small businesses. Because no notice of proposed rulemaking is required for procedural rules, the requirements of the RFA pertaining to regulatory flexibility analysis do not apply. However, even if the RFA were to apply, the Department certifies that this interim rule will not have a significant impact on a substantial number of small entities. Although the employer of a delinquent debtor would have to certify certain information about the debtor such as the debtor's employment status and earnings, that information is normally in the employer's payroll records. It would not take a significant amount of time or result in a significant cost for an employer to make this certification. An employer is not required to vary its normal pay cycle to comply with a garnishment order issued under these regulations.

For purposes of the Unfunded Mandates Reform Act (UMRA), 2 U.S.C. § 1501-1516, the Department has determined that the rule contains no Federal mandates, as defined in Title II of UMRA. Therefore the rule is not subject to the requirements of section 202 and 205 of UMRA.

Executive Orders 12866 and 12988 require that each agency write regulations that are easy to understand and specify how individual civil litigation rights will be affected. The Department has determined that this rule is drafted, to the extent practicable, under the standards established in those orders. However, the Secretary invites comments on how to make these proposed regulations easier to understand.

Executive Order 13132 requires us to ensure meaningful and timely input by state and local elected officials in the development of regulatory policies that have federalism implications. The interim rule does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government

#### IV. Summary of Key Aspects of the Rule

This rule applies to debts owed to the Department or in connection with any program administered by the Department. The administrative wage garnishment process will be applied consistently throughout the Department.

The Department can enter into agreements, such as memoranda of understanding, with other Federal agencies permitting that agency to administer part or all of the Department's administrative wage garnishment process. Nothing in this regulation requires the Department to duplicate notices or administrative proceedings required by contract, this regulation, or other laws or regulations. Thus, for example, the Department is not required to provide a debtor with two hearings on the same issue merely because two different collection tools are used, each of which requires that the debtor be provided with a hearing.

Section 20.205 lists the notice requirements, which includes an explanation of the debtor's rights. The debtor is allowed to inspect Department records related to the debt, enter into a written repayment agreement, and have a hearing. A debtor can request one of two types of available hearings--a paper hearing or an oral hearing. The format of oral hearings is not limited to in-person and telephone hearings and may include new forms of

technology. The hearing official has the authority to determine the kind of hearing and the amount of time allotted each hearing.

If a hearing is held, the Department can meet its initial burden by offering documentation, including a copy of the debt adjudication, which demonstrates the existence of the debt and its amount. Once the Department has established its prima facie case, the debtor can dispute the existence or amount of the debt. For example, the debtor can meet his or her burden by demonstrating that he or she is not the person who owes a debt to the Department, that he or she has not received payments from the Department or has not been fined by the Department, or that he or she has already paid the debt.

Additionally, the Federal Employees Compensation Act (FECA), 5 U.S.C. 8101-8193, contains a provision that precludes administrative and judicial review of agency determinations, which normally includes a repayment schedule. As a result, for hearings related to FECA debts, once the Department has made its prima facie case, the debtor has only two limited grounds on which he or she can demonstrate that an administrative wage garnishment is not appropriate. The debtor may not challenge the underlying merits of the determination that created the debt.

Section 20.209 describes how much the Department can withhold through administrative wage garnishment, which is up to 15%, and the employer's administrative wage garnishment duties. A withholding order for family support would always have priority over an administrative wage garnishment order. If there are multiple federal garnishment orders, priority depends on which garnishment order was first obtained. When a debtor's disposable pay is already subject to one or more withholding orders with higher or equal priority with the Department's administrative wage garnishment order,



the amount that the employer must withhold and remit to the Department would not be more than an amount calculated by subtracting the amount(s) withheld under the other withholding order(s) from 25% of the debtor's disposable pay. For example, if the employer is withholding 20% of a debtor's disposable pay for a family support or prior withholding order, the amount withheld for the subsequent withholding order issued under this section is limited to 5% of the debtor's disposable pay. When the family support or prior withholding order terminates, the amount withheld for the subsequent withholding order issued under this section may be increased to 15%.

#### List of Subjects in 29 CFR Part 20

Administrative wage garnishment, debt collection, Labor.

Signed at Washington, DC, on this 29<sup>th</sup> day of September, 2015

Thomas E. Perez

U.S. Secretary of Labor.

For the reasons set forth in the preamble, the Department of Labor amends part 20 of title 29 of the Code of Federal Regulations as follows:

#### **PART 20—FEDERAL CLAIMS COLLECTION**

1. The authority citation for part 20 is revised to read as follows:

Authority: 31 U.S.C. 3711 et seq.; Subpart D is also issued under 5 U.S.C. 5514; Subpart E is also issued under 31 U.S.C. 3720A; Subpart F is also issued under 31 U.S.C. 3720D.

2. Add subpart F to read as follows:

**Subpart F—Administrative Wage Garnishment**

Sec.

20.201 Purpose.

20.202 Scope.

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**§ 20.201 Purpose.**

This section provides procedures the U.S. Department of Labor may use to collect money from a debtor's disposable pay by means of administrative wage garnishment to satisfy delinquent nontax debt owed to the Department. In accordance with the procedures set forth in 31 U.S.C. 3720D and 31 CFR 285.11, the Department may request that a non-Federal employer garnish the disposable pay of an individual to collect delinquent non-tax debt owed to the Department or in connection with any program administered by the Department.

**§ 20.202 Scope.**

(a) This subpart applies to any non-tax debt owed to the U.S. Department of Labor or in connection with any program administered by the Department and to any entity that

pursues recovery of such debt. The Department can enter into arrangements with other federal agencies to carry out its responsibilities under this part.

(b) This subpart shall apply notwithstanding any provision of State law.

(c) Nothing in this subpart precludes the compromise of a debt or the suspension or termination of a collection action in accordance with applicable law. See, for example, the Federal Claims Collection Standards (FCCS), 31 CFR 900–904.

(d) The receipt of payments pursuant to this subpart does not preclude the Department from pursuing other debt collection remedies separately or in conjunction with administrative wage garnishment, including the offset of Federal payments, to satisfy delinquent nontax debt owed to the Department.

(e) This subpart does not apply to the collection of delinquent nontax debt owed to the United States from the wages of Federal employees from their Federal employment. Federal pay is subject to the Federal salary offset procedures set forth in 5 U.S.C. 5514 and other applicable laws.

(f) Nothing in this subpart requires the Department to duplicate notices or administrative proceedings required by contract, this subpart, or other laws, regulations, or procedures.

**§ 20.203 Definitions.**

As used in this section the following definitions shall apply:

(a) The term business day means Monday through Friday, not including Federal legal holidays. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

(b) The term day means calendar day. For purposes of computation, the last day of the period will be included unless it is a Saturday, a Sunday, or a Federal legal holiday.

(c) The term debt or claim means any amount of money, funds or property that has been determined by an appropriate official of the Federal Government to be owed to the Department by an individual, including debt administered by a third party as an agent for the Federal Government.

(d) The term debtor means an individual who owes a delinquent nontax debt to the Department.

(e) The term delinquent nontax debt means any nontax debt that has not been paid by the date specified in the initial written demand for payment, or applicable agreement, unless other satisfactory payment arrangements have been made. For purposes of this section, the terms “debt” and “claim” are synonymous and refer to delinquent nontax debt.

(f) The term Department means the United States Department of Labor.

(g) The term disposable pay means that part of the debtor's compensation (including, but not limited to, salary, bonuses, commissions, and vacation pay) from an employer remaining after the deduction of health insurance premiums and any amounts required by law to be withheld. For purposes of this subpart, “amounts required by law to be withheld” include amounts for deductions such as social security taxes and withholding taxes but do not include any amount withheld pursuant to a court order.

(h) The term employer means a person or entity that employs the services of others and that pays their wages or salaries. The term employer includes, but is not limited to, State and local Governments but does not include an agency of the Federal Government.

(i) The term evidence of service means information retained by the Department indicating the nature of the document to which it pertains, the date of mailing of the

document, and to whom the document is being sent. Evidence of service may be retained electronically so long as the manner of retention is sufficient for evidentiary purposes.

(j) The term garnishment means the process of withholding amounts from an employee's disposable pay and the paying of those amounts to a creditor in satisfaction of a withholding order.

(k) The term hearing official means any qualified individual, as determined by the Department.

(l) The term withholding order means any order for withholding or garnishment of pay issued by the Department. For purposes of this section, the terms “wage garnishment order” and “garnishment order” have the same meaning as “withholding order.”

**§ 20.204 General rule.**

Whenever the Department determines that a delinquent debt is owed by an individual, to the Department or in connection with any program administered by the Department, the Department may initiate proceedings administratively to garnish the wages of the delinquent debtor.

**§ 20.205 Notice requirements.**

(a) At least 30 days before the initiation of garnishment proceedings, the Department shall mail, by first class mail to the debtor's last known address a written notice informing the debtor of:

- (1) The nature and amount of the debt;
- (2) The intention of the Department to initiate proceedings to collect the debt through deductions from pay until the debt and all accumulated interest, penalties and administrative costs are paid in full; and

(3) An explanation of the debtor's rights, including those set forth in paragraph (b) of this section, and the time frame within which the debtor may exercise his or her rights.

(b) The debtor shall be afforded the opportunity:

(1) To inspect and copy the Department's records related to the debt;

(2) To enter into a written repayment agreement with the Department under terms agreeable to the Department; and

(3) For a hearing in accordance with §20.206 before a hearing official. The debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under 20.206(b)(2)..

(c) The Department will retain evidence of service indicating the date of mailing of the notice.

**§ 20.206 Hearing.**

(a) Request for hearing. If the debtor submits a written request for a hearing concerning the existence or amount of the debt or the terms of the repayment schedule, the Department shall provide a written or oral hearing in accordance with 31 CFR 285.11(f) before a hearing official.

(b) Type of hearing or review. (1) For purposes of this subpart, whenever the Department is required to afford a debtor a hearing, the Department shall provide the debtor with a reasonable opportunity for an oral hearing when the hearing official determines that the issues in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity.

(2) If a hearing official determines that an oral hearing is appropriate, the time and location of the hearing, including the amount of time allotted for the hearing, shall be at the discretion of the hearing official. An oral hearing may, at the discretion of the hearing official, be conducted either in-person, by telephone conference, or by other electronic means. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor. All charges incurred during the hearing as a result of the use of telephone conference or other electronic means will be the responsibility of the Department.

(3) In those cases when an oral hearing is not required by this section, a hearing official shall nevertheless accord the debtor a “paper hearing,” that is, a hearing official will decide the issues in dispute based upon a review of the written record. The hearing official will establish a reasonable deadline for the submission of evidence.

(c) Effect of timely request. Subject to §20.206(k), if the debtor's written request is received by the Department on or before the 15th business day following the mailing of the notice described in §20.205(a), the Department shall not issue a withholding order under §20.207 until the debtor has been provided the requested hearing and a decision in accordance with paragraphs (h) and (i) of this section has been rendered.

(d) Failure to timely request a hearing. If the debtor's written request is received by the Department after the 15th business day following the mailing of the notice described in §20.205(a), the Department shall provide the debtor with a hearing before a hearing official. However, the Department will not delay issuance of a withholding order unless the Department determines that the delay in filing the request was caused

by factors beyond the debtor's control or the Department receives information that the Department believes justifies a delay or cancellation of the withholding order.

(e) Procedure. After the debtor requests a hearing, the hearing official shall notify the debtor of:

- (1) The date and time of a hearing conducted by telephone conference or other electronic means;
- (2) The date, time, and location of an in-person oral hearing; or
- (3) The deadline for the submission of evidence for a written hearing.

(f) Burden of proof. (1) The agency will have the burden of going forward to prove the existence or amount of the debt. The Department can satisfy this burden by submitting a certified copy of the adjudication or other document that establishes the existence of the debt and the amount of the debt.

(2) Thereafter, if the debtor disputes the existence or amount of the debt, the debtor must show by a preponderance of the evidence that no debt exists or that the amount of the debt is incorrect. In addition, the debtor may present evidence that:

- (i) The terms of the repayment schedule are unlawful;
- (ii) The terms would cause a financial hardship to the debtor; or
- (iii) The collection of the debt may not be pursued due to operation of law.

(3) Debts that arise under the Federal Employees Compensation Act, 5 U.S.C. 8101-8193, are subject to preclusion of administrative and judicial review, as described at 5 U.S.C. 8128(b). As a result, once the Department meets its burden of showing the existence and amount of a debt under this statute, the debtor must prove by a preponderance of the evidence that:



(i) The documentation put forward by the agency to establish the debt was not authentic;  
or

(ii) The debt was incurred by someone other than the debtor as a result of identity theft.

(g) Record. The hearing official must maintain a summary record of any hearing provided under this section.

(h) Hearing procedure. A hearing is an informal process and the hearing official is not bound by common law or statutory rules of evidence or by technical or formal rules of procedure. However, witnesses who testify in oral hearings must do so under affirmation, so that 18 U.S.C. 1001 applies.

(i) Date of decision. The hearing official shall issue a written opinion stating his or her decision, as soon as practicable, but not later than 60 days after the date on which the request for such hearing was received. If a hearing official is unable to provide the debtor with a hearing and render a decision within 60 days after the receipt of the request for such hearing:

(1) The Department may not issue a withholding order until the hearing is held and a decision rendered; or

(2) If the Department had previously issued a withholding order to the debtor's employer, the Department must suspend the withholding order beginning on the 61st day after the receipt of the hearing request and continuing until a hearing is held and a decision is rendered.

(j) Content of decision. The written decision shall include:

(1) A summary of the facts presented;

(2) The hearing official's findings, analysis, and conclusions; and

(3) The terms of any repayment schedules, if applicable.

(k) Final agency action. The hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act, 5 U.S.C. 701-706.

(l) Failure to appear. In the absence of good cause shown to the hearing official, a debtor who fails to appear at a hearing scheduled pursuant to this section will be deemed as not having timely filed a request for a hearing.

**§ 20.207 Wage garnishment order.**

(a) Unless the Department receives information that the Department believes justifies a delay or cancellation of the withholding order, the Department shall send, by first class mail, a withholding order to the debtor's employer:

(1) Within 30 days after the debtor fails to make a timely request for a hearing (i.e., within 15 business days after the mailing of the notice described in §20.205(a), or,

(2) If a timely request for a hearing is made by the debtor, within 30 days after a final decision is made by the hearing official, or,

(3) As soon as reasonably possible thereafter.

(b) The withholding order sent to the employer under paragraph (a) of this section shall be in the form prescribed by the Secretary of the Treasury. The withholding order shall contain the signature of, or the image of the signature of, the Secretary of Labor or his or her delegatee. The order shall contain only the information necessary for the employer to comply with the withholding order. Such information includes the

debtor's name, address, and Employee Identification Number, as well as instructions for withholding and information as to where payments should be sent.

(c) The Department will retain evidence of service indicating the date of mailing of the order.

**§ 20.208 Certification by employer.**

Along with the withholding order, the agency shall send to the employer a certification in the form prescribed by the Secretary of the Treasury. The employer shall complete and return the certification to the Department within the time frame prescribed in the instructions to the form. The certification will address matters such as information about the debtor's employment status and disposable pay available for withholding.

**§ 20.209 Amounts withheld.**

(a) After an employer receives a garnishment order, the employer must deduct from all disposable pay paid to the applicable debtor during each pay period the amount of garnishment described in paragraph (b) of this section.

(b) Subject to the provisions in paragraphs (c) and (d) of this section, the amount of garnishment shall be the lesser of:

(1) The amount indicated on the garnishment order up to 15 percent of the debtor's disposable pay; or

(2) The amount set forth in 15 U.S.C. 1673(a)(2) (Restriction on Garnishment). The amount set forth at 15 U.S.C. 1673(a)(2) is the amount by which a debtor's disposable pay exceeds an amount equivalent to thirty times the minimum wage.

See 29 CFR 870.10.

- (c) When a debtor's pay is subject to withholding orders with priority the following shall apply:
- (1) Unless otherwise provided by Federal law, withholding orders issued under this subpart shall be paid in the amounts set forth under paragraph (b) of this section and shall have priority over other withholding orders which are served later in time. However, withholding orders for family support shall have priority over withholding orders issued under this subpart.
  - (2) If amounts are being withheld from a debtor's pay pursuant to a withholding order served on an employer before a withholding order issued pursuant to this subpart, or if a withholding order for family support is served on an employer at any time, the amounts withheld pursuant to the withholding order issued under this subpart shall be the lesser of:
    - (i) The amount calculated under paragraph (b) of this section, or
    - (ii) An amount equal to 25 percent of the debtor's disposable pay less the amount(s) withheld under the withholding order(s) with priority.
  - (3) If a debtor owes more than one debt to the Department, the Department may issue multiple withholding orders provided that the total amount garnished from the debtor's pay for such orders does not exceed the amount set forth in paragraph (b) of this section.
- (d) An amount greater than that set forth in paragraphs (b) and (c) of this section may be withheld upon the written consent of the debtor.
- (e) The employer shall promptly pay to the Department all amounts withheld in accordance with the withholding order issued pursuant to this subpart.

- (f) An employer shall not be required to vary its normal pay and disbursement cycles in order to comply with the withholding order.
- (g) Any assignment or allotment by an employee of his earnings shall be void to the extent it interferes with or prohibits execution of the withholding order issued under this subpart, except for any assignment or allotment made pursuant to a family support judgment or earlier withholding order.
- (h) The employer shall withhold the appropriate amount from the debtor's wages for each pay period until the employer receives notification from the Department to discontinue wage withholding. The garnishment order shall indicate a reasonable period of time within which the employer is required to commence wage withholding.

**§ 20.210 Exclusions from garnishment.**

The Department may not garnish the wages of a debtor who it knows has been involuntarily separated from employment until the debtor has been reemployed continuously for at least 12 months. The debtor has the burden of informing the Department (or any other federal agency exercising the Department's authority under this subpart) of the circumstances surrounding an involuntary separation from employment.

**§ 20.211 Financial hardship.**

- (a) A debtor whose wages are subject to a wage withholding order under this subpart, may, at any time, request a review by the Department of the amount garnished, based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship.
- (b) A debtor requesting a review under paragraph (a) of this section shall submit the basis for claiming that the current amount of garnishment results in a financial hardship to

the debtor, along with supporting documentation. The Department shall consider any information submitted in accordance with procedures and standards established by the agency.

- (c) If a financial hardship is found, the Department shall downwardly and temporarily adjust the amount garnished to reflect the debtor's financial condition. The Department will notify the employer of any adjustments to the amounts to be withheld.

**§ 20.212 Ending garnishment.**

- (a) Once the Department has fully recovered the amounts owed by the debtor, including interest, penalties, and administrative costs consistent with the FCCS, the Department shall send the debtor's employer notification to discontinue wage withholding.
- (b) At least annually, the Department shall review its debtors' accounts to ensure that garnishment has been terminated for accounts that have been paid in full.

**§ 20.213 Actions prohibited by employer.**

An employer may not discharge, refuse to employ, or take disciplinary action against the debtor due to the issuance of a withholding order under this subpart.

**§ 20.214 Refunds.**

- (a) If a hearing official, at a hearing held pursuant to §20.206, determines that a debt is not legally due and owing to the Department, the Department shall promptly refund any amount collected by means of administrative wage garnishment.
- (b) Unless required by Federal law or contract, refunds under this section shall not bear interest.

**§ 20.215 Right of action.**

The Department may sue any employer for any amount that the employer fails to withhold from wages owed and payable to an employee in accordance with §§20.207 and 20.209. However, a suit may not be filed before the termination of the collection action involving a particular debtor, unless earlier filing is necessary to avoid expiration of any applicable statute of limitations period. For purposes of this subpart, “termination of the collection action” occurs when the agency has terminated collection action in accordance with the FCCS or other applicable standards. In any event, termination of the collection action will have been deemed to occur if the agency has not received any payments to satisfy the debt from the particular debtor whose wages were subject to garnishment, in whole or in part, for a period of 1 year.

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