

VA Financial Policies and Procedures  
Evaluation Standards - COWC

**CHAPTER 7**

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## 0701 OVERVIEW

The Committee on Waivers and Compromises (COWC) Chairperson will review the quality and timeliness of Committee decisions on a periodic basis. The quality and timeliness reviews will be based on a sample of COWC decisions completed during the review period. The Chairperson, or their designee, will follow the guidance listed in Appendix A to ensure a complete review of COWC decisions is performed. The Chairperson may also use VA Form 20-8959, Committee on Waivers and Compromises-Review Worksheet, to conduct reviews of selected cases.

## 0702 POLICIES

070201 VA will prepare quarterly COWC quality and timeliness reports. The purpose of the quarterly review is to evaluate the COWC Committee's decision-making function, and also to provide a basis for comparison with prior reviews. Trend data deficiencies in the quality review, as well as elapsed processing time deficiencies, will be examined to see if an acceptable level of performance is being accomplished. Also, the reviews will be used to support future training sessions.

## 0703 AUTHORITY AND REFERENCES

070301 [5 U.S.C. 5584, Claims for Overpayment of Pay and Allowances](#)

070302 [38 U.S.C. 5302, Waiver of Recovery of Claims by the United States](#)

070303 [38 C.F.R. 1.955 – 1.970, Regional Office Committees on Waivers and Compromises](#)

## 0704 ROLES AND RESPONSIBILITIES

070401 The Assistant Secretary for Management/Chief Financial Officer (CFO), as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309, oversees all financial management activities relating to the Department's programs and operations. Specific responsibilities include the direction, management and provision of policy guidance, and oversight of VA's financial management personnel, activities and operations. The CFO establishes financial policy, systems and operating procedures for all VA financial entities and provides guidance on all aspects of financial management.

070402 Under Secretaries, Assistant Secretaries, Chief Financial Officers, Fiscal Officers, Chief Accountants, and other key officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

070403 The COWC Chairperson is responsible for the preparation of the quality and timeliness reviews.

## 0705 PROCEDURES

070501 The COWC Chairperson will perform quarterly quality and timeliness reviews on COWC decisions. In writing the quarterly report, the Chairperson should only fully discuss those areas which do not comply with the standards set forth in the quality elements in Appendix A. Reports will be forwarded to the Director and Finance Officer. See Appendix A for further information regarding quality standards.

070502 The Chairperson is responsible for a quarterly review of the lapsed time standards pertaining to the COWC Committee's work. See Appendix B, as well as Chapter 6 for information on lapsed time standards. The quarterly lapsed time report will contain the number of cases reviewed, the number and percentage of cases that met the standard, the number and percentage of cases that did not meet the standard, and an explanation of why the standards were not met. The Chairperson should immediately attempt to correct any problems within his/her jurisdiction, which are the cause of a failure to meet the lapsed time standards. If the failure to meet the standards is the result of a problem not within the jurisdiction of the Chairperson, he/she should prepare a memorandum to the division chief of the activity responsible for the problem and request a quick resolution.

070503 The COWC Chairperson will conduct, at a minimum, annual training sessions with committee members.

## 0706 DEFINITIONS

070601 Administrative Control Function. The finance and fiscal operations, as well as any other activity designated with administrative control, conducted at the local station Committee on Waivers and Compromises.

070602 Chairperson. The individual who manages the work of the Committee.

070603 Committee. The particular decision-making body, which may be composed of a one-person panel (38 C.F.R. 1.955(d)), or a panel composed of two or three members. The Committee may be part of a centralized system or a regional office Committee system.

070604 Compromise. Acceptance of less than the full amount of a debt in settlement and full satisfaction of the debt.

070605 Debt. A claim for money made by or owed to the Government, generated from VA activities. It includes overpayments ([38 C.F.R. 1.962](#)).

070606 Member. The individual who participates on the panel to review waiver requests and compromise offers. The individual has special competence and familiarity with one or more of the debt claim areas (i.e., compensation, pension, education, insurance, loan guaranty, etc.).

070607 Reporting Member. The individual who is designated by the Chairperson to be the presiding officer over a panel.

070608 Waiver. VA's decision to give up the right to collect a valid debt, including interest and other late payment charges, which falls under the applicable statutes (38 U.S.C. 5302 and 5584) and regulations.

### **0707 RESCISSIONS**

This chapter rescinds MP-4, Part I, Chapter 8, Appendix A, Evaluation Standards.

### **0708 QUESTIONS**

Questions concerning these financial policies and procedures should be directed as shown below:

VHA	VHA Accounting Policy (Outlook)
VBA	VAVBAWAS/CO/FINREP (Outlook)
All Others	OFP Accounting Policy (Outlook)

## APPENDIX A

### QUALITY REVIEW ELEMENTS

The COWC Chairperson will consider all of the following elements when reviewing the quality of decisions:

#### (1) Screening Cases

- a. The subject matter and the amount of debt or overpayment are within the Committee's authority and jurisdictional limits and all other requisites are present for proper presentation to the Committee.
- b. There is no indication of fraud or misrepresentation of a material fact. If there is such an indication, the case has been referred to and/or has been considered by the Inspector General or the Regional Counsel for submission to the U.S. Attorney under [38 C.F.R. 1.962\(b\)](#).
- c. Where a debtor has been discharged in bankruptcy, the folder contains a memorandum from the Regional Counsel regarding the legal effect of such discharge on the debtor's liability to VA.
- d. Any correspondence from or on behalf of a debtor concerning the debt as a request for waiver was considered. Only those requests that exclusively contest the creation of the debt itself will not be referred to the Committee for consideration.
- e. The waiver request is timely and is not preceded by a prior request that has been completely disposed of.

#### (2) Development of Evidence

- a. The Committee requested or obtained material evidence, not foreseeable at time of referral (i.e., validation of or reasons for obligor's debts, etc.).
- b. In all cases except those involving a request for waiver of erroneous payment of pay or allowances, the Committee will always attempt to obtain a completed VA Form 5655, Financial Status Report, or similar financial information. If the debtor refuses to submit a completed financial statement, the Committee must note this in their discussion and conclude that collection of the debt will not create a financial hardship.
- c. The evidence considered by the Committee was pertinent and necessary to the issue.

(3) Decision

- a. The decision not only states supported conclusions, but also contains a brief summary of the facts and evidence evaluated.
- b. In applying the principles of equity and good conscience, the elements that formed the basis for the decision are substantiated by the evidence and are clearly discussed in the decision.

(4) Appeal

- a. The debtor is properly notified of the decision and advised of his or her procedural and appellate rights and the right to request a local hearing.
- b. Hearings are only held in waiver cases and are not conducted for compromise offers.

(5) Notice of Disagreement

- a. A proper Notice of Disagreement (NOD), and not a mere inquiry, was received within the statutory time limit and acted upon.
- b. A NOD is acted upon only in waiver denial cases. A NOD concerning the creation of the debt itself should never be referred to the Committee for consideration. Instead, the Committee Chairperson should immediately refer this type of appeal to the appropriate Program Office for proper disposition.

(6) Hearing

- a. The debtor was properly informed of his/her right to request a hearing on the issue of waiver.
- b. The debtor was provided appropriate information concerning the time and place of the hearing.
- c. Hearings are conducted in accordance with M21-1MR, Part I, Chapter 4.
- d. Hearing panels are composed of the panel members who will make the subsequent waiver decision, except when the hearing is not conducted by the Committee of jurisdiction. See chapter 1, paragraph 0105054.
- e. Hearings are held only in waiver cases and are not conducted for compromise offers.

(7) Statement of the Case

- a. The Statement of the Case (SOC) contains a complete summary of evidence and is prepared in accordance with [38 C.F.R. 19.29](#), citing pertinent laws and regulations. A narrative format is always used.
- b. The SOC does not contain prohibited matter, such as words and phrases contrary to public interest or detrimental to the Veteran's health or identifying sources of information adverse to the claimant.
- c. The SOC reflects the conclusion reached, based on facts and evidence contained in the decision, and the reasons for the decision are clearly and properly set forth.
- d. VA Form 1-646, Statement of Accredited Representative in Appealed Case, was received when required.
- e. Certification of appeal to Board of Veterans Appeals and notice to appellant of such certification were signed by the Chairperson.
- f. The loan guaranty folder and/or claims folder, as appropriate, were forwarded to the Board of Veterans Appeals.

(8) Compromise

- a. In accepting an offer, it is clearly shown to be proportionate with the total amount owed and the debtor's ability to pay, and acceptance is advantageous to the Government.
- b. When two or more debtors are jointly and severally liable, care is exercised that compromise with any one such debtor does not, as to the remaining debtor(s), release the VA claim against them, establish a precedent or become morally binding in determining the amount required from them. The decision clearly sets forth the reservation of the Government's right to collect from the other debtor.
- c. When rejecting an offer, all pertinent facts are stated and the debtor is advised (1) no compromise offer will be accepted based on current facts, or (2) another compromise offer will be considered, specifying the amount.
- d. In loan cases, the correct amount of the indebtedness is shown. If there is any indication of an inaccurate appraisal of the property for liquidation purposes, the case is returned to the Loan Guaranty Division for administrative adjustment.
- e. There is no right of appeal of a decision rejecting a compromise. However, there is no limit to the number of times a debtor may make a new compromise offer.

(9) Erroneous Payment of Pay and Allowances

- a. The Committee on Waivers and Compromises has sole authority to consider waiver requests on these debts under authority of 5 U.S.C. 5584 and 38 C.F.R. 1.963a. The Committee may deny waiver, regardless of the amount of the debt.
- b. A request for waiver is denied where there exists fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person interested in obtaining a waiver.
- c. A waiver is considered when collection would be against equity and good conscience and not in the best interest of the United States and when the erroneous payment occurred through administrative error. Financial hardship is not applicable under [5 U.S.C. 5584](#).
- d. No right of appeal to the Board of Veterans Appeals exists where there is a denial of the waiver request. However, the debtor will be informed of his/her right to appeal to the Committee that made the original decision to deny waiver. The Chairperson will assign the appeal to a different Committee member(s) than the member(s) who made the decision that is now the subject of the appeal.

#### (10) Organizational Planning

- a. The Committee is properly staffed and consists of a Chairperson and a sufficient number of Committee members appointed by the Director of the station.
- b. Members are selected so that in each of the debt claims activities of compensation, pension, education, insurance, loan guaranty (at offices having such activities) and employee pay, there is at least one member with special competence.
- c. The services of all members and alternate members, including the Chairperson and alternate Chairperson, are used to equalize the case load and to provide necessary training and experience.
- d. Sufficient alternate members are appointed to handle the case load adequately.
- e. All members and alternate members are identified.
- f. Where the waiver request or compromise offer is for a debt of \$20,000 or less, one person with special competence in the program area where the debt arose is designated by the Chairperson to consider the request or offer, and only his/her signature to the decision is sufficient. If the debt for which the waiver request or compromise offer is more than \$20,000 (exclusive of interest and administrative costs), the Chairperson will assign two Committee members. One of the two members will be knowledgeable in the program area where the debt arose.

g. No Committee member is assigned to a case in which he/she participated in establishing the debt for which waiver is requested or a compromise is offered.

(11) Operations Control

a. Required lapsed time standards are implemented and a written review is conducted on a quarterly basis to ensure compliance.

b. When minimum lapsed time standards are not met, a written analysis is made of the reasons for the substandard performance and corrective action taken or recommended if not within the control of the Chairperson.

c. Follow-up procedures are implemented and controlled by the Chairperson.

d. The written quarterly review of lapsed time will be maintained for 3 years to show whether timeliness is improving, deteriorating, or remaining constant.

e. A written review of the quality of Committee decision-making and overall operations will be made four times a year. The Chairperson will use either VA Form 20-8959, Committee on Waivers and Compromises-Review Worksheet, or the areas of inquiry from the quality review sections (sections 1–10 and section 11) of this chapter to conduct such review.

f. A training session for Committee members will be conducted annually when new members are appointed, or when deficiencies are identified. The training session will rely on the findings of the quarterly quality reviews and the guidelines found in the quality review section of this chapter and VBA Training Guide TG 20-90-2 (October 9, 1998).

## APPENDIX B

### Lapsed Time Standards

The following are the timeliness standards for COWC cases:

(1) 50 percent of all cases received during the quarter completed within 30 calendar days of receipt.

(2) 75 percent of all cases received during the quarter completed within 60 calendar days of receipt.

(3) 99 percent of all cases received during the quarter completed within 120 calendar days of receipt.

The lapsed time required to complete the consideration of any case (original request for waiver, notice of disagreement, reconsideration of a waiver decision or a compromise offer) will be measured by counting the number of calendar days from the date the case is received by the Committee Chairperson after referral from the Chief of the Fiscal activity until the date the completed decision is signed by the Committee members. The lapsed time standards will be applied to all cases received within the quarter being reviewed.

An original request for waiver, a notice of disagreement, a substantive appeal, or a reconsideration of an original waiver request under authority of 38 C.F.R. 1.969, are all considered as new actions before the Committee and are recorded as new entries. For example, the total lapsed time on an original request for waiver (or compromise offer) would run from the date the request is received in the Fiscal activity at the station of jurisdiction until the date of the FL 4-326, FL 4-437, or notice to the Debt Management Center (or the date of notice of acceptance or rejection of the compromise offer).