



Department of Veterans Affairs

Financial Policy

Volume XII

Debt Management

Chapter 11A

Waiver Requests and Processing - COWC

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1101 Overview

This chapter provides Department of Veteran Affairs’ financial policies related to the waiver of Veteran medical and benefit debt, employee and ex-employee debt owed to the Department of Veterans Affairs (VA)

Key items presented in this chapter discuss how the VA Committee on Waivers and Compromises (COWCs) will:

- Only consider waiver requests submitted from entities eligible to apply for a waiver;
- Only consider waiver requests related to debts eligible for waiver; and
- Adhere to all applicable laws, regulations, and policies governing waivers.

1102 Revisions

Section	Revision	Office	Reason for Change	Effective Date
Various	Reformatted to new policy format and 5-year policy review	OFP (047G)	Reorganized chapter layout	February 2021
Various	Combined Volume XI Ch 4 Processing a Request for a Waiver - COWC, and Volume XII Chapter 1b Waivers	OFP (047G)	Combined chapters to simplify and reduce repetitive information	February 2021
1103 Definitions	Updated definitions	OFP (047G)	Updated and added definitions for clarity	February 2021
1104 Roles and Responsibilities	Changed title of Chief of Finance Activity to Chief of Local Financial Activity	OFP (047G)	Updated role titles for clarity	February 2021
1107 Rescissions	Volume XI Ch 4 Processing a Request for a Waiver - COWC, and Volume XII Chapter 1b Waivers	OFP (047G)	No longer applicable	February 2021

1103 Definitions

Compromise – Governed by 31 U.S.C. § 3711, a compromise is an offer and acceptance of a partial payment in settlement and full satisfaction of the offeror’s indebtedness as it exists at the time the offer is made. It is a final settlement, binding

on the parties to the compromise, unless procured by fraud, misrepresentation of a material fact or mutual mistake of fact.

Debt – Money or property owed to VA.

Fraud – A knowing misrepresentation of the truth or concealment of it to induce another to act to his/her detriment, a criminal act of corruption, attempt to cheat the Government, and/or to corrupt the Government's agents.

Notice of Disagreement/Reconsideration (NOD) – A statement in writing from a debtor letting VA know they disagree with the decision made by the COWC.

Notice of Indebtedness (NOI) – Written communication sent by VA providing the debtor with notification of the existence and amount of the debt, payment remittance information, accrual of interest, penalties, and administrative costs, due process rights. A NOI is sometimes referred to as a demand letter.

Waiver – A decision that conditions exist which should result in cancellation, forgiveness, or non-recovery of a debt owed, including interest and other late payment charges assessed on such debts under the applicable statutes and implementing regulations 38 C.F.R. § 1.955, through 38 C.F.R. § 1.969, and 38 C.F.R. § 17.105.

1104 Roles and Responsibilities

Administrative Control Function is the Fiscal Officer in a station hosting a COWC, who has the responsibility for overseeing the operational aspects of the COWC. The term Fiscal Officer in this case also refers to the Executive Director of the Debt Management Center (DMC). However, the station Director has the authority to reassign the administrative control function to another station activity, rather than the fiscal officer (38 C.F.R. § 1.955(c)). The term “administrative control function” will be used throughout Volume XII to describe either the Finance Office or other station activity assigned the administrative control of the station Committee.

Board of Veterans' Appeals (BVA) reviews benefits claim determinations made by local VA offices and issues decisions on appeals of those determinations. BVA has the authority to consider waiver of a debt resulting from a benefit payment to a payee deceased at the time payment was made. For more information on BVA, refer to 38 U.S.C. § 7103-7104.

Committee on Waivers and Compromises (COWC) is the decision-making panel composed of one or more members, making decisions on a request for a waiver or compromise. The Committee is under the direction of and has authority vested in the Director of the office of jurisdiction. The Committee will have independent decision-making authority.

Chairperson of the COWC is responsible for executing or certifying any documents pertaining to Committee proceedings and considering extensions to requests for waivers of indebtedness. He/she is responsible for maintaining needed records of the transactions of the Committee and preparation of any administrative or other reports required. The Chairperson normally represents the Committee in dealing with other divisions and top management.

Chief of the Local Finance Activity is responsible for ensuring compliance with the policies and appropriate procedures which provide guidance for the administration of VA's debt collection activities. Any reference to the Chief of the Local Financial Activity can also refer to the: Executive Director of the Debt Management Center (DMC), Director of the Financial Service Center (FSC) where appropriate, as well as Chief Fiscal Officers in VA Medical Centers, Chief Finance Officers in Regional Offices, and Chief Fiscal Officers in the Consolidated Patient Account Centers (CPAC).

1105 Policies

110501 Who May Apply for a Waiver

- A. Any debtor or beneficiary, including a fiduciary on behalf of a Veteran/beneficiary, may apply for a waiver on any debt, except for Loan Guaranty debts.
- B. For Loan Guaranty Program debts; a Veteran-borrower, Veteran-transferee, Veteran-purchaser on a vendee account, spouse, former spouse, widow, or widower of a Veteran may apply for a waiver. In addition, a spouse, former spouse, or surviving spouse of a Veteran can request a waiver of collection of a debt in connection with a loan that is either guaranteed, insured, made to, or acquired by the Veteran under 38 U.S.C. § Chapter 37, when such spouse was a co-obligor with the Veteran who is indebted to VA. A spouse can request a waiver in his or her own right, even if the Veteran has already requested a waiver and been denied. See 38 U.S.C. § Chapter 37.
- C. A spouse, parent, sibling, or representative of the estate of a deceased payee charged with an overpayment if the debt was established before their death may request a waiver. Since the reduction of a payee's estate by the collection of the overpayment affects living individuals, such as heirs, assignees, or creditors, the representative may request waiver, on the estate's behalf, to preserve the assets for the disposition intended by the payee.
- D. In an opinion dated March 7, 2002, the General Counsel determined that the Committee can continue consideration of a request for waiver of indebtedness brought by a debtor, notwithstanding the death of the debtor, while the waiver proceeding is pending. The General Counsel noted that, although the Board of

Veterans Appeals (BVA) is affirmatively precluded by 38 C.F.R. § 20.1302, there appears to be no legal principle or court precedent that precludes continued consideration of a waiver request by the Committee after the death of the debtor. Thus, the Committee decision on such a case would be the final administrative decision by VA. If there is any question as to the propriety of continuing consideration after notification of the death of the debtor, the administrative control function shall immediately contact the surviving spouse or representative of the estate and request confirmation for continued consideration. Under no circumstances will the Committee cease consideration of a waiver request or Notice of Disagreement/Reconsideration (NOD) solely because the debtor has died, unless the debtor has left no estate. If no estate exists, VA can no longer pursue collection, thus rendering the issue of waiver moot.

- E. Waiver requests must be submitted in writing per 38 C.F.R. §§1.911 (c)(2) and 1.912(c)(2). To apply for a waiver, a debtor must submit the following items:
- A written request that explains the rationale for requesting a waiver. The request should explain why the debtor should not be held responsible for payment of the debt, or why collection of the debt would be unfair and create a financial hardship.
 - Completed and signed Financial Status Report form or equivalent documents; and credit reports, if applicable.

110502 Debts Subject to Waiver

- A. The following are examples of debts subject to consideration for waiver:
- An erroneous travel advance, but, only to the extent that the advance was made to cover expenses erroneously authorized;
 - Continuing Service Agreements (CSA) - Section 4108 of title 5 of the United States Code authorizes the head of an agency to waive in whole or in part a right of recovery of a CSA debt;
 - Overpayments arising out of participation in the Homeless Grant and Per Diem Program (38 U.S.C. § 2011- 2012; 38 C.F.R. § 61) are eligible for waiver under 38 U.S.C. § 5302; and
 - Veterans' debts arising from medical care copayments (38 C.F.R. § 17.105(c)). The same standards and procedures cited for VBA benefits debts will apply to pharmacy and other medical care copayment debts.
 - Claims for erroneous payments of pay and allowances, and erroneous payments of travel, transportation, and relocation expenses and allowances, made to or on behalf of employees.
 - For more information on debts subject to consideration see 38 C.F.R. § 1.956. For employee debts refer to Volume XII, Chapter 3, Employee Debt.
- B. 38 C.F.R. § 1.962, states the term "overpayment" refers only to benefit payments. This regulation limits a Committee's authority to consider waiver to only those debts that arise because of an overpayment or erroneous payment of benefits to a designated payee or beneficiary who was alive at the time the overpayment or

erroneous payment was made. Thus, a Committee has no specific authority to consider waiver of a debt resulting from a benefit payment to a designated payee or beneficiary who was deceased at the time the payment was made. These debts should be referred to BVA.

- C. Debts approved for waiver by the COWC or BVA will be written-off within 90 days of the waiver being approved.

110503 Exclusions

The following are debts that are excluded from waiver consideration:

- A. The indebtedness of a non-Veteran obligor (other than Veteran's spouse) under the home loan program (38 U.S.C. § 5302(b), and 38 C.F.R. § 1.964);
- B. Home loan debts where the Veteran voluntarily surrendered a deed of title in lieu of foreclosure in connection with a defaulted VA guaranteed loan and who also signed a promissory note to VA for the difference between the outstanding debt and the value of the security at the time the original deed was written;
- C. Home loan redemption cases where the property is redeemed by the Veteran or spouse or their assignee or, if the Veteran or spouse is the successful bidder at the foreclosure sale;
- D. The indebtedness of an educational institution found liable under 38 U.S.C. § 3685, 38 C.F.R. § 1.967(b);
- E. An overpayment to an insured from an insurance contract that is secured by an active National Service Life Insurance (NSLI) or United States Government Life Insurance (USGLI) policy. However, if the indebtedness can be recovered from any VA benefit payments, other than insurance payments, then the indebtedness may be considered for waiver (38 C.F.R. § 1.966(b)(2)(i) and M29-1, Part I, Chapter 9);
- F. Debts resulting from services furnished in a medical emergency (38 C.F.R. § 17.102(b)) rendered to any person who was not eligible for such services as a Veteran;
- G. Erroneous benefit payments received by third parties who are not eligible payees, beneficiaries, nor fiduciaries (38 C.F.R. § 1.962);
- H. Interest, administrative costs and penalties, when the principal of the debt is not waived (38 C.F.R. § 1.915 (f)(1)) which remain under jurisdiction of the facility administrative control officer;
- I. In any case where there is an indication of fraud or misrepresentation of a material

fact on the part of the debtor or any other party having an interest in the claim pending appropriate disposition of the matter (38 C.F.R. § 1.962 (b));

- J. Overpayments or erroneous payments made under the Survivor Benefit Plan (SBP) (10 U.S.C. § 1447-1455) and the Retired Serviceman's Family Protection Plan (RSFPP). SBP and RSFPP are Department of Defense benefit programs, rather than VA benefit programs, and therefore there is no authority in 38 U.S.C. § 5302, to consider any of these overpayments for waiver;
- K. VHA debts where the liability for the debt rests with a third party or legal entity or when such debts involve claims under workers' compensation or employer liability status (38 C.F.R. §2.6(e));
- L. When an employee is in an insufficient pay status or non-pay status, responds to health insurance premium debt notice with written confirmation of election to continue health insurance coverage while incurring a debt and there are no erroneous payments made to the employee during that time; the Federal Employee Health Benefit (FEHB) program employee contribution debt may not be considered for waiver under 5 U.S.C. § 55845. However, if VA under-withholding or not withholding the correct FEHB premiums resulted in the employee receiving erroneous pay, the employee with such a debt is eligible for waiver under 5 U.S.C. § 5584; and
- M. Waiver request on drill pay debts per 10 U.S.C. § 12316, and 38 U.S.C. § 5304(c), which prohibits the concurrent receipt of military pay and VA disability compensation or pension, as also described in M21-1MR, part III, subpart V, 4.c.1.b. The overpayment of benefits resulting from the dual compensation must be collected.

110504 Timing of Waiver Request

- A. For all debts of benefit overpayments, not including Loan Program debts or erroneous employee pay and allowances debts, a request for waiver of indebtedness under this subparagraph shall be considered only if made within 180 days following the date of a NOI issued by VA to the debtor. If a request is not received within 180 days the debt is referred to Treasury.
- B. The 180-day period may be extended if the individual requesting a waiver demonstrates to the chairperson of the Committee that, as a result of an error by either VA or the postal authorities, or due to other circumstances beyond the debtor's control, there was a delay in that individual's receipt of the (NOI) beyond the time customarily required for mailing (including forwarding). If the requester substantiates there was such a delay, the chairperson shall direct that the 180-day period be computed from the date of the requester's actual receipt of the notice of indebtedness. The Chairperson is responsible for the supervision and overall quality control of the Committee and its staff. This

control will also entail a quality review of Committee actions, including elapsed time standards review.

- C. A request for waiver of indebtedness for a Loan Program debt shall be made within one year after the date on which the debtor receives written NOI from VA, by Certified Mail-Return Receipt Requested.
- D. An application for waiver of a debt due to erroneous employee pay and allowances must be submitted within three years following the date on which the erroneous payment was discovered. For more employee debt information refer to Volume XII, Chapter 3, Employee Debt.
- E. An application for waiver of a debt due to a breach of a continuing service agreement will be governed by the terms in the continuing service agreement itself. If the agreement does not state the time limit, then the time limit is 180 days following the date of the NOI issued by VA to the debtor.

1106 Authorities and References

[5 U.S.C. § 5584 Claims for Overpayment of Pay and Allowances, and of Travel, Transportation and Relocation Expenses and Allowances](#)

[31 U.S.C. § 3711 Collection and Compromise](#)

[31 C.F.R. § 17.105 Waivers](#)

[38 C.F.R. 1.911-1.912 Collection of debts owed by reason of participation in a benefits program.](#)

[38 C.F.R. § 1.919 Administrative Offsets](#)

[38 C.F.R. 1.983 Notice requirements before salary offsets of debts not involving benefits under the laws administered by VA.](#)

[38 C.F.R. § 17.102 \(a\) and \(b\) Charges for Care or Services](#)

[38 C.F.R. § 20.301, Rule 301 Who Can File an Appeal](#)

[38 C.F.R. § 20.1302 Rule 1302 Death of Appellant During Pendency of Appeal](#)

[38 C.F.R. § 61 VA Homeless Providers Grant and Per Diem Program](#)

[38 C.F.R. § 1.955 - 1.969 Committee on Waivers and Compromises](#)

[38 C.F.R. § 19.29 Statement of the Case](#)

[38 C.F.R. § 20.200 What Constitutes an Appeal](#)

[38 C.F.R. § 20.201 Notice of Disagreement](#)

[38 C.F.R. § 20.302 Time Limit for Filing a Notice of Disagreement](#)

[38 U.S.C. § 19.26 Action by Agency of Original Jurisdiction on Notice of Disagreement](#)

[38 U.S.C § 2011-2012 Grants and Per Diem Payments](#)

[38 U.S.C. § 3685 Overpayments to Eligible Persons or Veterans](#)

[38 U.S.C. § 5302 \(a\), \(b\), and \(c\) Waiver of Recovery of Claims by the United States](#)

[38 U.S.C § 7101-7113 Board of Veterans' Appeals](#)

[38 U.S.C. Chapter 37 Housing and Small Business Loans](#)

1107 Rescissions

This chapter rescinds MP-4. Part I, Chapter 8, Section B, Equity and Good Conscience, Financial Policy Volume XI Chapter 4 Processing a Request for a Waiver - COWC, and VA Policy Volume XII Chapter 1b Waivers.

1108 Questions

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

VHA	VHA CFO Accounting Policy (10A3A) (Outlook)
VBA	VAVBAWAS/CO/OPERATIONS (Outlook)
DMC	VAVBASPL/DMC/BDEV (Outlook)
All Others	OFP Accounting Policy (Outlook)