



Department of Veterans Affairs

Financial Policy

Volume XII

Debt Management

Chapter 11D

Hearings - COWC

Approved:

Jon J. Rychalski
Assistant Secretary for Management
and Chief Financial Officer

1101 Overview	2
1102 Revisions	2
1103 Definitions.....	2
1104 Roles and Responsibilities.....	3
1105 Policies.....	4
110501 General Policies	4
110502 Hearings Before Committee.....	5
110503 Rescheduling a Hearing	6
110504 Forming a Committee	6
1106 Authorities and References.....	7
1107 Rescissions	7
1108 Questions.....	7

1101 Overview

This chapter provides Department of Veteran Affairs' (VA) financial policies related to the Committees on Waiver and Compromise (COWC) hearing process for the waiver or compromise of debts due to VA.

Key points covered in this chapter:

- The debtor has the right to a hearing related to their request for a waiver;
- The Government will not pay any expenses incurred by the debtor, his/her representative or any witness incident to a hearing;
- Committee members that conduct the hearing must render the waiver decision; and
- A complete hearing transcript must be incorporated into the debt record, including evidence received and the evaluation, discussion, and analysis of each piece of evidence.

1102 Revisions

Section	Revision	Office	Reason for Change	Effective Date
Various	Reformatted to new policy format	VBA/ORM (241)	Reorganized chapter layout	September 2020
Volume XII Chapter 11D	Moved to Volume XII. Changed chapter number to 11D.	VBA/ORM (241)	Chapters were combined	September 2020
0105 Procedures	Moved procedures to appendices	VBA/ORM (241)	Reorganized chapter layout	September 2020

1103 Definitions

Compromise – Governed by 31 U.S.C. § 3711, a compromise is an offer and acceptance of 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.

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. 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. 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 administration of VA's debt collection activities. Any reference to Chief of the Local Financial Activity can also refer to: Executive Director of DMC, Director of 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).

Committee Member is an individual who participates on the panel to review waiver requests and compromise offers. The individual will have special competence and

familiarity with one or more of the debts claim areas.

Debt Management Center (DMC) is a franchise fund (fee-for-service) organization at VA. DMC offers a wide range of debt management services including debt resolution activities, as well as waivers and compromises under their jurisdiction.

Directors of VA Medical and Regional Office Centers hosting a COWC will appoint a Committee chairperson, members and alternates in accordance with 38 C.F.R. § 1.955(b).

Under Secretary for Benefits, in accordance with 38 C.F.R. § 1.956(b), may assume original jurisdiction of any matter the Committee has authority to consider, but for which it has not rendered a decision on the issue involved. The Under Secretary for Benefits will establish an ad hoc Board to determine the issue. It is contemplated such authority will be used sparingly, only in circumstances that involve a unique case.

1105 Policies

110501 General Policies

- A. Debtors will be given the opportunity for a hearing prior to the initial Committee decision. If a hearing is held the Committee members that conducted the hearing must render the waiver decision.
- B. The debtor shall be provided with appropriate information concerning the time and place of a hearing.
- C. Hearings are only held for waiver requests (and are not conducted for compromise offers).
- D. Hearings are conducted in accordance with VBA handbook M21-1, Part I, Chapter 4.
- E. Compromise requests are not afforded a hearing as the decision is made strictly based upon the information in the debt record.
- F. There is no right of appeal from a decision rejecting a compromise offer as compromise decisions are final and not subject to appeal.
- G. In any instance when a formal hearing is not requested but there is personal contact and discussion, a report will be made of the conversation with the claimant(s) and/or their representative(s). VA Form 119, Report of Contact, must be completed and reflect an accurate summary of the conversation that took place. The Committee will consider any such evidence.

110502 Hearings Before Committee

- A. In accordance with 38 C.F.R. § 1.966, a hearing will be granted upon receipt of a request (e.g. phone call, email, etc.) from the debtor, or his/her representative.
- B. If it is not clear whether a claimant or representative desires a hearing, this should be clarified and, if requested, a hearing held.
- C. When a request for a Committee hearing is made in a Veteran benefit debt waiver case, the hearing will be conducted in the manner prescribed in 38 C.F.R. § 3.103(c), and M21-1, Part I, Chapter 4 the VA Adjudication Procedures Manual.
- D. The Chairperson or administrative control function will notify the interested parties of the time and place of the hearing.
- E. The notice of time and place of the hearing will be signed by the chairperson.
- F. The Government will not pay any expenses incurred incident to a hearing by the debtor, his/her representative or any claimant witness.
- G. If the debtor cannot travel to the station where the Committee of jurisdiction is located, the hearing may be held at a station that is more accessible to him or her. The Committee liaison at the station of jurisdiction and the station hosting the hearing will work together to schedule and manage the hearing.
- H. A Committee may conduct a hearing in which the claimant or his/her representative participates by telephone or video conference.
- I. The Committee will consider and make a recommendation on the debtor's request for waiver for amounts above \$100,000. The Committee will conduct the hearing and forward a recommendation to the Department of Justice (DOJ) for a final decision. The Committee will only consider, and process, a waiver request above \$100,000 if DOJ authorizes VA to do so.
- J. The Committee's decision will always refer to and contain a discussion of any evidence derived from a hearing.
- K. A complete transcript must be incorporated into the record.
- L. If the debtor did not request a hearing with the initial waiver request, they may request a hearing after the initial Committee decision is made. If the debtor requests a hearing after a Committee decision, then the hearing panel must be different Committee members than those who rendered the previous Committee decision. A debtor must be afforded a hearing on appeal if requested, irrespective of whether he/she was granted a hearing in connection with the initial Committee consideration

of the waiver application. For information on appeals see Vol. XII Ch 11E, Appeals.

110503 Rescheduling a Hearing

- A. A hearing will normally be rescheduled for good cause, at the debtor's request, if he or she is unable to attend the scheduled hearing. Examples of good cause include the following:
- Illness of the debtor or representative;
 - Difficulty obtaining records; and
 - Unavailability of a witness.
- B. A debtor who misses a rescheduled hearing will be contacted to determine whether he/she was aware of the scheduled hearing and the reason, if any, for his/her failure to attend. A hearing date will only be rescheduled a third time if it is found that there were compelling reasons that prevented the debtor from attending the first two scheduled dates and there is reasonable cause to believe that the debtor will be able to attend a rescheduled hearing.
- C. If a debtor fails to appear at a scheduled hearing without good cause, the Committee will render a decision based on the available evidence. This decision will note the debtor's failure to appear for the hearing.

110504 Forming a Committee

- A. Directors of VA Medical and Regional Office Centers responsible for COWC activities will appoint a COWC Committee chairperson, members and alternates in accordance with 38 C.F.R. § 1.955(b).
- B. Hearing panels comprised of one to three COWC committee members will be formed to review specific waiver and compromise requests. The hearing panel members will be selected based upon their areas of expertise.
- C. When the debt for which the waiver request is made is \$20,000 or less (exclusive of interest and administrative costs), the Chairperson will assign only one Committee member. This one Committee member will have experience in the program area where the debt is located. The single panel member's decision will stand as the decision of the Committee.
- D. When the debt for which the waiver is made 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.
- E. When a two-member panel cannot reach a unanimous decision, the Chairperson will

assign a third member of the Committee to the panel or assign the case to three new members, and the majority vote will determine the Committee decision.

1106 Authorities and References

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

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

[38 U.S.C. § 3720, Powers of Secretary](#)

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

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

[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. § 1.934, Further Review of Compromise Offers](#)

[38 C.F.R. § 1.955\(b\), Regional Office Committees on Waivers and Compromises](#)

[38 C.F.R. § 1.956, Jurisdiction](#)

[38 C.F.R. § 1.966, Scope of Waiver Decisions](#)

[38 C.F.R. § 1.970, Standards for Compromise](#)

[38 C.F.R. § 3.103\(c\), Procedural Due Process and Appellate Rights](#)

[38 C.F.R. § 17.105 Waivers](#)

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

[M21-1, Part I, Chapter 4](#)

1107 Rescissions

This chapter rescinds Volume XI Chapter III.

1108 Questions

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

VBA

All Others

VAVBAWAS/CO/241C/COWC (Outlook)

OFP Accounting Policy (Outlook)