

May 21, 2001

VA COLLECTION STANDARDS

1. REASON FOR ISSUE: To revise Department of Veterans Affairs (VA) debt management procedures formerly contained in VA Manual MP-4, Part VIII, Chapter 3, and Appendices B and C. Along with the other VA Handbooks in the 4800 series, this handbook implements the policies contained in VA Directive 4800, Debt Management.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This handbook establishes the general procedural guidelines for the collection of debts owed to VA.

a. This handbook contains general procedural statements concerning administrative demands for the payment of debts and the preference for collection by lump sum payment, administrative offset, or installment payments.

b. It describes the general requirements for VA collection letters.

c. It explains the need for and appropriate use of financial status reports, credit reports, and field examinations.

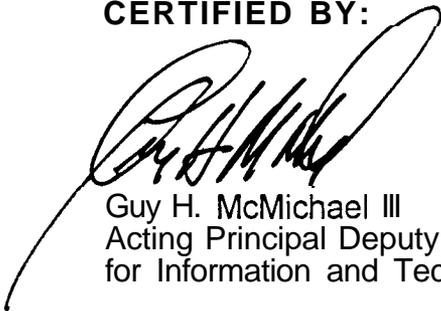
d. It provides procedures for the disposition of debts when the debtor is deceased and the debt existed prior to death.

3. RESPONSIBLE OFFICE: Cash and Debt Management Division (047GC1), Office of the Deputy Assistant Secretary for Finance.

4. RELATED DIRECTIVE: VA Directive 4800, Debt Management.

5. RESCISSIONS: VA Manual MP-4, Part VIII, Chapter 3, and Appendices B and C, dated September 22, 1992.

CERTIFIED BY:



Guy H. McMichael III
Acting Principal Deputy Assistant Secretary
for Information and Technology

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS**



D. Mark Catlett
Acting Principal Deputy Assistant
Secretary for Management

Distribution:

VA COLLECTION STANDARDS

CONTENTS

PARAGRAPH	PAGE
1. PURPOSE AND SCOPE	5
2. RESPONSIBILITY	5
3. ADMINISTRATIVE DEMANDS AND PREFERRED COLLECTION METHODS	5
4. CORRESPONDENCE WITH DEBTORS	8
5. OTHER COMMUNICATION AND DOCUMENTATION	9
6. FINANCIAL STATUS REPORTS, CREDIT REPORTS, AND FIELD EXAMS	10
7. DECEASED DEBTORS	10

VA COLLECTION STANDARDS

1. PURPOSE AND SCOPE: This handbook provides the general guidelines for the collection of debts owed to VA. It covers administrative demands for the payment of debts, the use of collection letters, file documentation, the use of financial status reports, credit reports, and field examinations, and the disposition of certain death cases.

2. RESPONSIBILITY

a. VA Directive 4800, Debt Management, redelegates from the Assistant Secretary for Management to the Chief of the fiscal activity at all Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) stations and including the Director of the Debt Management Center the authority to:

- (1) collect claims in any amount,
- (2) suspend collection action on claims valued up to \$100,000,
- (3) terminate collection action on claims valued up to \$100,000, and
- (4) refer for litigation claims of any amount.

b. Any further redelegation of this authority to the Chief of the fiscal activity must be documented by a written statement of such redelegation. Copies of the statement must be sent to the Cash and Debt Management Division (047GC1), the Delegation Control Officer, the Regional Counsel (RC), and the General Counsel.

3. ADMINISTRATIVE DEMANDS AND PREFERRED COLLECTION METHODS

a. General.

(1) One set of specific rules for recovery of debts due the United States cannot be prescribed for use in all instances because the circumstances pertaining to indebtedness vary widely. However, prompt and aggressive action on a timely basis with effective follow-up utilizing every reasonable effort consistent with the nature and amount of the indebtedness will always be taken to collect debts (See M29-1, Part II, Insurance Operations – Accounts Procedures, Chapter 11, Lien and Chapter 12, Other Indebtedness, for information regarding the collection of insurance liens).

(2) Per VA Directive 4800, VA components will recover claims due from debtors by direct collection in lump sums whenever possible. If collection by lump sum is not possible, debts should be collected by offset against moneys due to the debtor by the Federal Government (such as through benefit offset, salary offset, or the Treasury Offset Program) or by installment payments. Only when these options prove unworkable will other avenues of collection be pursued (e.g., litigation or private collection agencies).

(3) Special consideration should be shown a veteran-debtor who has reenlisted or reentered active service as a result of a national emergency situation. Discretion and good judgment should govern collection actions where the debtor is in the military service and is also stationed overseas. In these latter instances where the veteran or a family member indicates immediate repayment would create a problem, information should be furnished to the debtor that the collection of the indebtedness will be deferred until the veteran returns to the United States. The debtor will be advised to contact the local VA office upon return to the

United States. Where interest, administrative costs, and other charges will continue to accrue, the debtor should be advised it is advantageous to liquidate the debt as quickly as circumstances permit.

b. Collection by Offset.

(1) **General.** When collection in one lump sum payment cannot be effected, collection by offset should be accomplished whenever possible. Collection by offset from benefit payments is limited to debts resulting from participation in a VA benefit program. However, such offset is not limited to recovery of overpayments. That is, offset may be made to collect debts resulting from defaulted home loans and education loans, from the provision of medical services at a VA facility, from participation in a work-study program, or from the receipt of illegal payments made to, or on behalf of, beneficiaries (38 U.S.C. §5301, §5314). When collecting a debt by periodic offset from VA benefit payments or any other federal payments, the amount withheld should be sufficient (subject to statutory limits) to liquidate the debt within the period that such pay or benefit payment is expected to continue (see paragraph d. below for more detailed requirements). Unless taking such action would jeopardize the Government's ability to collect a debt, before the Department effects the offset of a benefit payment VA must:

(a) make reasonable efforts to notify the debtor of his or her right to dispute the existence or amount of the debt, and of his or her right to request a waiver and oral hearing on the issue, and

(b) make a determination regarding such dispute or request if it is received within 30 days from the date of initial notification of the debt. In determining the proper collection action, the debtor's waiver rights will be duly considered to assure compliance with the law prior to taking action to offset benefits (see VA Handbook 4800.3, Waiver of Debts).

(2) Compensation and Pension (C&P).

(a) A retroactive payment will automatically be applied to an overpayment when the retroactive payment restores benefits for the period for which the overpayment was created. All other retroactive payments will also be withheld to offset an outstanding benefit debt unless the Chief of the fiscal activity determines the specific circumstances of a case warrant the release of some or all of the retroactive payment.

(b) When a reopened C&P award is processed that does not restore benefits for a period previously paid, benefits will be withheld to apply to an existing overpayment if the debtor has been advised of waiver and other due process rights. If full withholding causes undue hardship, a mutually satisfactory repayment plan may be arranged. If, within 30 days of VA mailing the first collection letter, the debtor requests a waiver and/or an oral hearing, or disputes the debt, deductions will be suspended until the Committee on Waivers and Compromises (COWC) makes an initial decision on the waiver or the appropriate office has ruled on the dispute.

(c) When an amended award creates an overpayment and the payee is to remain in an active award status, the payee will be allowed to receive two full checks prior to starting deductions. If full withholding causes undue hardship, a mutually satisfactory repayment plan may be arranged. (See MP-4, Part IV, VA Financial Policy.)

(3) Education.

(a) Where an overpayment exists in the Education system or is created **as a** result of award action, the full amount of retroactive, current, and future education benefits will be automatically withheld until the overpayment is fully liquidated unless the debtor submits a request for waiver or disputes the debt within 30 days from the date of the first demand letter. If full withholding causes undue hardship, a mutually satisfactory repayment plan may be arranged if the amount of the overpayment can be liquidated during the current period of enrollment.

(b) If the debtor requests a waiver and/or an oral hearing, or disputes the debt within 30 days of the first demand letter, deductions will be suspended until the COWC makes an initial decision on the waiver or the appropriate office rules on the dispute.

(c) When there is an existing receivable created by a Vocational Rehabilitation and Education (VR&E) revolving fund loan, records should be checked before offsetting benefits since a repayment agreement may already be in effect and should not be disturbed.

(4) Federal Payment. Due process outlined in VA Handbook 4800.2, Dispute Procedures for Benefit Debts (VBA and VHA) and MP-4, Part VIII, Chapter 8, Employee Debts (to be replaced by VA Handbook 4800.7), Treasury Offset Program and Treasury Cross-Servicing, must be provided to a debtor before involuntarily offsetting from current federal salary or other federal payments.

(5) Personal Funds of Patient (PFOP). Any PFOP account derived from gratuitous benefits paid under laws administered by VA may be used to offset any overpayment of VA compensation or pension, or any charges resulting from unauthorized hospitalization. Funds may also be used to offset other indebtedness due the Government where not specifically precluded by statute.

c. Benefits That May Not Be Offset.

(1) The special monthly pension awarded to a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll may not be offset involuntarily per 38 U.S.C. §1562(c). Offset of this special pension can only occur if the recipient specifically requests that we offset to facilitate payment of a debt. (The Compensation and Pension (C&P) Master Record, MI 1 TARGET screen, will indicate special law code 01 if a person has been awarded this special payment.)

(2) Burial awards may not be offset except to recover duplicate burial payments made to the same payee.

(3) Offset of an overpayment made to a payee in one capacity will not be made from benefits currently being paid in another capacity, e.g., offset against a surviving spouse for an overpayment made to him/her as wife or husband payee, legal custodian, etc. However, offset is permitted if a surviving spouse, legal custodian, etc., voluntarily consents to withholding from his/her benefits.

(4) If an overpayment results from benefits being paid beyond the date of entitlement for a minor child, collection should be made from the estate of this child, if any. If there are no assets in the child's estate, collection action against the child's fiduciary will be pursued as in other overpayments. The assistance of the RC may be requested if necessary. The overpayment will not be withheld from benefits due another child (or children) of the same

veteran, whether or not the children have the same custodian or guardian. Such withholding would be in violation of 38 U.S.C. §5301(b).

d. **Collection by Installment (Debtor not in receipt of benefits).**

(1) If the debtor is financially unable to pay the indebtedness in one lump sum and offset from Federal payments is not known to be possible, payment may be accepted in regular installments.

(2) Arrangements to pay by installments should provide for complete liquidation within a reasonable time, considering the size of the debt and the debtor's ability to pay, and should not normally extend more than 3 years. When the debt is greater than \$50, installment payments of less than \$50 per month should be accepted only if justifiable on grounds of hardship or some other reasonable cause. However, if the financial information indicates that the proposed installment arrangement is the best that can be obtained, the voluntary payment should be accepted even though it is less than \$50 per month.

(3) Acceptable financial information should be secured before accepting an offer to pay by installments (at a minimum, this should include a completed VA Form 20-5655, Financial Status Report, or its equivalent). Should the debtor become delinquent in the installment payments, a prompt reminder followed by a strong demand letter should usually be dispatched to the debtor. If such follow-up does not result in the resumption of payments, other means of collection should be pursued such as wage garnishment, referral to the Treasury Department for cross-servicing or administrative offset, referral to a private collection agency, or referral for litigation and enforced collection. If referrals do not produce results, the account may be considered for write-off.

4. CORRESPONDENCE WITH DEBTORS

a. **General.**

(1) Letters and replies to debtors' inquiries should be forceful but not threatening in tone, and must explain clearly and in detail to the debtor the circumstances or reason for establishing the indebtedness. In order to maintain internal control, follow-up on delinquent debts will not be made by the agent cashiers since they collect and deposit funds. The follow-up function must be performed by personnel who have no access to collections and deposits.

(2) Form letters and computer-generated letters for nonbenefit debts programmed in VA's automated financial systems are usually written by VACO Cash and Debt Management Division (047GC1) and are concurred in by the proper components in VHA and, if necessary, the General Counsel. They may not be altered or changed by field stations. The Debt Management Center (DMC) has authority to develop and revise letters programmed in Centralized Accounts Receivable System (CARS) and other DMC systems. The VHA Revenue Office has similar authority for its collection letters. VACO (047GC1) will maintain an oversight/approval function for all letters and may require General Counsel concurrence in some cases. Administration components may request that existing letters be changed to adjust to changing circumstances; however, the letters must be approved by (047GC1) prior to use. In special circumstances (other than first collection letters), dictated letters by field personnel may be used when the form or computer-generated letters are not appropriate. Form and computer-generated letters do not require a signature.

(3) All collection letter envelopes should be stamped "Address Correction Requested." (Note: Envelopes sent out by the DMC are labeled "Do Not Forward").

b. **Address Location.** A review of VA records should be made when a demand letter is returned because the debtor's whereabouts are unknown. A letter returned by the Postal Service as undelivered does not mean that the debtor's address is necessarily incorrect and should not be interpreted to mean that the whereabouts of the debtor are unknown. Claim and loan files frequently contain leads that should be pursued. Other sources which may be of assistance are: current credit reports; telephone directories; city directories; employers; Postal Service; State and local government agencies; and other Federal agencies including the Internal Revenue Service (IRS). Addresses obtained from the IRS will be used for debt collection purposes only and will not be released outside VA. Simultaneous use of several locator methods where there is no cost for the locator service is encouraged.

c. Demand Letter Requirements.

(1) For debts resulting from the default of a guaranteed or direct home loan, the first demand letter must be sent by certified mail - return receipt requested. Otherwise, the time allowed to request waiver will not be limited and these debts will not be subject to collection by administrative offset of federal payments other than VA benefit payments.

(2) For all debts the first demand letter is to be sent to the debtor as soon as is practical after the debt is established.

(3) If no response is received, additional demand letters may be sent at no more than 30-day intervals. Usually, not more than three such letters with progressively stronger wording will be sent. Additional letters should not be sent when a debtor's response to the initial or second letter clearly indicates that further demands would be futile and the response does not require a rebuttal, or when a determination is made that it is not cost effective to send more than one letter. Examples of when subsequent letters are not necessary would be when the debtor absolutely refuses to pay the debt even though the debt is acknowledged, or when the dollar amount of a receivable is so low as to not warrant more than one letter. Each administration or staff office should set such threshold amounts as described in VA Directive 4800, paragraph 2b(4). At least one letter must advise the debtor of the consequences of not paying the debt (i.e., referral to consumer reporting agencies, private collection agencies, Treasury Offset Program/Cross-servicing, and for enforced collection). Unless it is certain that more than one letter will be sent if the debt is not resolved after the first letter, the advice about the consequences of not paying must be included in the first letter.

5. OTHER COMMUNICATION AND DOCUMENTATION

a. Debtors may be contacted by telephone to arrange for repayment of a debt. The value of telephone contacts cannot be overemphasized. Also, debtors may be interviewed in person if feasible. Telephone and personal contacts must be documented and made a part of the collection record, and this documentation must be included in referrals to the COWC, and in referrals for enforced collection.

b. Correspondence (other than computer generated form letters) sent to a debtor and received from a debtor must be filed in the claims file, loan docket (if no claims file exists), medical file, etc. (The Debt Management Center and the St. Paul VARO may microfilm correspondence.) The importance of maintaining an accurate and fully documented file on all debts cannot be overstated. This becomes a critical matter in those cases where the debtor refuses to pay a debt and the case must be referred to the RC for litigation or other action. Case file documentation includes, but is not limited to, documents identifying the overpayment such as site visit reports, audit reports, etc.; all noncomputer generated demand letters; notices of intent to appeal; appeal board decisions; reports of contact of phone conversations

with debtor; signed installment plans; court documents; other debt related correspondence to or from the debtor; etc.

6. FINANCIAL STATUS REPORTS, CREDIT REPORTS, AND FIELD EXAMS

a. **Financial Status Reports.** VA Form 20-5655, "Financial Status Report," has been designed for use in the collection of debts. VA Form 20-5655 (or equivalent) submitted by the debtor is used for determining:

- (1) ability to pay;
- (2) when it is appropriate to accept an installment payment plan instead of demanding lump sum payment;
- (3) hardship factors (e.g., for waiver cases);
- (4) when acceptance of a compromise offer is appropriate; or
- (5) when termination or suspension of collection action is appropriate.

VA Form 20-5655 must be signed and dated by the debtor when available and is to be included in referral packages submitted for enforced collection.

b. **Credit Reports.** The Chief of the fiscal activity is authorized to obtain credit reports for debt collection purposes on persons who are indebted to VA. Information contained in credit reports must be treated as confidential by VA personnel and will not be revealed to any persons except those involved in the collection process. The Chief of the fiscal activity should notify VACO (047GC1) if credit reports are not received timely or if there is a significant number of negative (credit data not available) or incomplete reports.

c. **Field Examinations.** Referral of nonjudgment cases to Veterans Services Officers (VSOs) for field examination will rarely be made. Field examinations may be scheduled to verify information provided on financial status reports, credit reports, and other documentary evidence, or to obtain financial status information. When requesting a field examination, pertinent documentation on collection action taken, including the financial status report or credit report, should be provided to the VSO. Debts will not be referred for enforced collection until after receipt of the field examination report. It is strongly emphasized that requests for field examinations will not be made routinely and only when there is reason to believe that the potential recovery may justify the cost of the exam.

7. DECEASED DEBTORS. The following procedures pertain only to debts existing prior to death. Policy and procedures for benefit overpayment debts created because of death is located in MP-4, Part IV, Chapter 6. (See Handbook 4800.6, Termination of Collection Action and Close Out of Debts, for write-off/termination policy.)

a. **Statute of Limitations Has Expired.** When evidence is received that a debtor is deceased and has an overpayment of record, a specially composed letter will be sent to the representative of the estate stating it is liable for the debt. If the estate does not repay the debt, it may be terminated, but may never be referred for litigation. For loan guaranty debts involving more than one person, debts of a decedent may be terminated, but the debts of the co-obligors will not be terminated unless they meet the write-off criteria found in MP-4, Part VIII, Chapter 5, Bankruptcy (to be replaced by VA Handbook 4800.18). Education loan debts may be terminated if a borrower dies.

b. Statute of Limitations Has Not Expired.

(1) If the statute of limitations has not expired and the debt is at least \$200 (except for education loan debts which may be written off if a borrower dies), letters will be sent simultaneously to the clerk of the probate court of the county in which the debtor last resided and to the representative of the estate of the deceased as indicated above. Where there is evidence of an estate or assets and the initial notification to the representative of the estate does not produce payment, prompt action will be taken to protect the interest of the Government. Claim will be made upon the representative of or attorney for the estate by the RC. If the representative or attorney indicates the debt will not be paid without a contest or court adjudication, the claim will be fully documented and referred to the RC for appropriate action. Loan guaranty debts may be written off as to the decedent but not as to the co-obligors.

(2) If the debt is under \$200, only the letter to the representative of the estate must be sent. If the representative or attorney does not indicate that the debt will be paid without a contest or court adjudication, the debt will be written off.