

§ 34.6

(a) The nature and amount of the debt;

(b) Our intention to collect the debt through deductions from pay until the debt and all accumulated interest, penalties, and collection costs are paid in full; and

(c) An explanation of your rights, including those in §34.6, and the time frame within which you may exercise your rights.

(Authority: 31 U.S.C. 3720D)

§ 34.6 Rights in connection with garnishment.

Before starting garnishment, we provide you the opportunity—

(a) To inspect and copy our records related to the debt;

(b) To enter into a written repayment agreement with us to repay the debt under terms we consider acceptable;

(c) For a hearing in accordance with §34.8 concerning—

(1) The existence, amount, or current enforceability of the debt;

(2) The rate at which the garnishment order will require your employer to withhold pay; and

(3) Whether you have been continuously employed less than 12 months after you were involuntarily separated from employment.

(Authority: 31 U.S.C. 3720D)

§ 34.7 Consideration of objection to the rate or amount of withholding.

(a) We consider objections to the rate or amount of withholding only if the objection rests on a claim that withholding at the proposed rate or amount would cause financial hardship to you and your dependents.

(b) We do not provide a hearing on an objection to the rate or amount of withholding if the rate or amount we propose to be withheld does not exceed the rate or amount agreed to under a repayment agreement reached within the preceding six months after a previous notice of proposed garnishment.

(c) We do not consider an objection to the rate or amount of withholding based on a claim that by virtue of 15 U.S.C. 1673, no amount of wages are

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available for withholding by the employer.

(Authority: 31 U.S.C. 3720D)

§ 34.8 Providing a hearing.

(a) We provide a hearing if you submit a written request for a hearing concerning the existence, amount, or enforceability of the debt or the rate of wage withholding.

(b) At our option the hearing may be an oral hearing under §34.9 or a paper hearing under §34.10.

(Authority: 31 U.S.C. 3720D)

§ 34.9 Conditions for an oral hearing.

(a) We provide an oral hearing if you—

(1) Request an oral hearing; and

(2) Show in the request a good reason to believe that we cannot resolve the issues in dispute by review of the documentary evidence, by demonstrating that the validity of the claim turns on the credibility or veracity of witness testimony.

(b) If we determine that an oral hearing is appropriate, we notify you how to receive the oral hearing.

(c)(1) At your option, an oral hearing may be conducted either in-person or by telephone conference.

(2) We provide an in-person oral hearing with regard to administrative debts only in Washington D.C.

(3) We provide an in-person oral hearing with regard to debts based on student loan or grant obligations only at our regional service centers in Atlanta, Chicago, or San Francisco.

(4) You must bear all travel expenses you incur in connection with an in-person hearing.

(5) We bear the cost of any telephone calls we place in order to conduct an oral hearing by telephone.

(d)(1) To arrange the time and location of the oral hearing, we ordinarily attempt to contact you first by telephone call to the number you provided to us.

(2) If we are unable to contact you by telephone, we leave a message directing you to contact us within 5 business days to arrange the time and place of the hearing.

(3) If we can neither contact you directly nor leave a message with you by telephone—

(i) We notify you in writing to contact us to arrange the time and place of the hearing; or

(ii) We select a time and place for the hearing, and notify you in writing of the time and place set for the hearing.

(e) We consider you to have withdrawn the request for an oral hearing if—

(1) Within 15 days of the date of a written notice to contact us, we receive no response to that notice; or

(2) Within five business days of the date of a telephone message to contact us, we receive no response to that message.

(Authority: 31 U.S.C. 3720D)

§ 34.10 Conditions for a paper hearing.

We provide a paper hearing—

(a) If you request a paper hearing;

(b) If you requested an oral hearing, but we determine under § 34.9(e) that you have withdrawn that request;

(c) If you fail to appear for a scheduled oral hearing, as provided in § 34.15; or

(d) If we deny a request for an oral hearing because we conclude that, by a review of the written record, we can resolve the issues raised by your objections.

(Authority: 31 U.S.C. 3720D)

§ 34.11 Timely request for a hearing.

(a) A hearing request is timely if—

(1) You mail the request to the office designated in the garnishment notice and the request is postmarked not later than the 30th day following the date of the notice; or

(2) The designated office receives the request not later than the 30th day following the date of the garnishment notice.

(b) If we receive a timely written request from you for a hearing, we will not issue a garnishment order before we—

(1) Provide the requested hearing; and

(2) Issue a written decision on the objections you raised.

(c) If your written request for a hearing is not timely—

(1) We provide you a hearing; and

(2) We do not delay issuance of a garnishment order unless—

(i) We determine from credible representations in the request that the delay in filing the request for hearing was caused by factors over which you had no control; or

(ii) We have other good reason to delay issuing a garnishment order.

(d) If we do not complete a hearing within 60 days of an untimely request, we suspend any garnishment order until we have issued a decision.

(Authority: 31 U.S.C. 3720D)

§ 34.12 Request for reconsideration.

(a) If you have received a decision on an objection to garnishment you may file a request for reconsideration of that decision.

(b) We do not suspend garnishment merely because you have filed a request for reconsideration.

(c) We consider your request for reconsideration if we determine that—

(1) You base your request on grounds of financial hardship, and your financial circumstances, as shown by evidence submitted with the request, have materially changed since we issued the decision so that we should reduce the amount to be garnished under the order; or

(2)(i) You submitted with the request evidence that you did not previously submit; and

(ii) This evidence demonstrates that we should reconsider your objection to the existence, amount, or enforceability of the debt.

(d)(1) If we agree to reconsider the decision, we notify you.

(2)(i) We may reconsider based on the request and supporting evidence you have presented with the request; or

(ii) We may offer you an opportunity for a hearing to present evidence.

(Authority: 31 U.S.C. 3720D)

§ 34.13 Conduct of a hearing.

(a)(1) A hearing official conducts any hearing under this part.

(2) The hearing official may be any qualified employee of the Department whom the Department designates to conduct the hearing.