

§ 1.955

38 CFR Ch. I (7–1–13 Edition)

(2) The claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to VA for enforcement; or

(3) The debtor has the clear ability to pay the claim and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

(c) VA should consult with the Financial Litigation Staff of the Executive Office for United States Attorneys, in DOJ, prior to referring claims valued at less than the minimum amount.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501)

[69 FR 62200, Oct. 25, 2004]

§ 1.955 Regional office Committees on Waivers and Compromises.

(a) *Delegation of authority and establishment.* (1) Sections 1.955 *et seq.* are issued to implement the authority for waiver consideration found in 38 U.S.C. 5302 and 5 U.S.C. 5584 and the compromise authority found 38 U.S.C. 3720(a) and 31 U.S.C. 3711. The duties, delegations of authority, and all actions required of the Committees on Waivers and Compromises are to be accomplished under the direction of, and authority vested in, the Director of the regional office. Delegations of authority and limitations for waiver actions under 5 U.S.C. 5584 are set forth in § 1.963a of this part.

(2) There is established in each regional office, a Committee on Waivers and Compromises to perform the duties and assume the responsibilities delegated by §§ 1.956 and 1.957. The term *regional office*, as used in § 1.955 *et seq.*, includes VA Medical and Regional Office Centers and VA Centers where such are established.

(b) *Selection.* The Director shall designate the employees to serve as Chairperson, members, and alternates. Except upon specific authorization of the Under Secretary for Benefits, when workload warrants a full-time committee, such designation will be part-time additional duty upon call of the Chairperson.

(c) *Control and staff.* The administrative control of each Committee on Waivers and Compromises is the responsibility of the station's Fiscal Officer. However, the station Director has the authority to reassign the administrative control function to another station activity, rather than the Fiscal Officer, whenever the Director determines that such reassignment is appropriate. The quality control of the professional and clerical staff of the Committee is the responsibility of the Chairperson.

(d) *Overall control.* The Assistant Secretary for Management is delegated complete management authority, including planning, policy formulation, control, coordination, supervision, and evaluation of Committee operations.

(e) *Committee composition.* (1) The Committee shall consist of a Chairperson and Alternate Chairperson and as many Committee members and alternate members as the Director may appoint. Members and alternates shall be selected so that in each of the debt claim areas (*i.e.*, compensation, pension, education, insurance, loan guaranty, etc.) there are members and alternates with special competence and familiarity with the program area.

(2) When a claim is properly referred to the Committee for either waiver consideration or the consideration of a compromise offer, the Chairperson shall designate a panel from the available Committee members to consider the waiver request or compromise offer. If the debt for which the waiver request or compromise offer is made is \$20,000 or less (exclusive of interest and administrative costs), the Chairperson will assign one Committee member as the panel. This one Committee member should have experience in the program area where the debt is located. The single panel member's decision shall stand as the decision of the Committee. If the debt for which the waiver request or compromise offer is made is more than \$20,000 (exclusive of interest and administrative costs), the Chairperson shall assign two Committee members. One of the two members should be knowledgeable in the program area where the debt arose. If the two member panel cannot reach a unanimous decision, the Chairperson shall assign a

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

(3) The assignment of a one or two member panel as described in paragraph (e)(2) of this section is applicable if the debtor files a Notice of Disagreement with a Committee decision to deny waiver. That is, if the Notice of Disagreement is filed with a decision by a one member panel to deny waiver of collection of a debt of \$20,000 or less, then the Notice of Disagreement should also be assigned to one panel member. Likewise, a Notice of Disagreement filed with a decision by a two or three member panel to deny waiver of collection of a debt of more than \$20,000 should also be assigned to a Committee panel of two members (three if these two members cannot agree). However, a Chairperson must assign the Notice of Disagreement to a different one, two, or three member panel than the panel that made the original Committee decision that is now the subject of the Notice of Disagreement.

(Authority: 5 U.S.C. 5584, 31 U.S.C. 3711, 38 U.S.C. 3720(a), 5302)

[44 FR 59905, Oct. 17, 1979, as amended at 48 FR 1056, Jan. 10, 1983; 54 FR 40871, Oct. 4, 1989; 57 FR 47264, Oct. 15, 1992; 60 FR 53276, Oct. 13, 1995; 69 FR 62201, Oct. 25, 2004]

§ 1.956 Jurisdiction.

(a) The regional office Committees are authorized, except as to determinations under § 2.6(e)(4)(i) of this chapter where applicable, to consider and determine as limited in §§ 1.955 *et seq.*, settlement, compromise and/or waiver concerning the following debts and overpayments:

(1) Arising out of operations of the Veterans Benefits Administration:

(i) Overpayment or erroneous payments of pension, compensation, dependency and indemnity compensation, burial allowances, plot allowance, subsistence allowance, education (includes debts from work study and education loan defaults as well as from other overpayments of educational assistance benefits) or insurance benefits, clothing allowance and automobile or other conveyance and adaptive equipment allowances.

(ii) Debts arising out of the loan program under 38 U.S.C. ch. 37 after liquidation of security, if any.

(iii) Such other debts as may be specifically designated by the Under Secretary for Benefits.

(2) Arising out of operations of the Veterans Health Services and Research Administration:

(i) Debts resulting from services furnished in error (§ 17.101(a) of this chapter).

(ii) Debts resulting from services furnished in a medical emergency (§ 17.101(b) of this chapter).

(iii) Other claims arising in connection with transactions of the Veterans Health Administration (§ 17.103(c) of this chapter).

(iv) Fiscal officers at VA medical facilities are authorized to waive veterans' debts arising from medical care copayments (§ 17.105(c) of this chapter).

(3) 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 (5 U.S.C. 5584).

(b) The Under Secretary for Benefits may, at his or her discretion, assume original jurisdiction and establish an ad hoc Board to determine a particular issue arising within this section.

(Authority: 38 U.S.C. 501)

[39 FR 26400, July 19, 1974, as amended at 44 FR 59905, Oct. 17, 1979; 60 FR 53276, Oct. 13, 1995; 69 FR 62201, Oct. 25, 2004]

§ 1.957 Committee authority.

(a) *Regional office committee.* On matters covered in § 1.956, the regional office Committee is authorized to determine the following issues:

(1) *Waivers.* A decision may be rendered to grant or deny waiver of collection of a debt in the following debt categories:

(i) Loan guaranty program (38 U.S.C. 5302(b)). Committees may consider waiver of the indebtedness of a veteran or spouse resulting from: (A) The payment of a claim under the guaranty or insurance of loans, (B) the liquidation of direct loans, (C) the liquidation of loans acquired under § 36.4318, and (D) the liquidation of vendee accounts. The phrase *veteran or spouse* includes a veteran-borrower, veteran-transferee, a