

§ 33.8

a prompt and appropriate hearing before a hearing official furnished pursuant to another lawful arrangement.

(2) Services rendered to a creditor agency under paragraph (b)(1) of this section will be provided on a fully reimbursable basis pursuant to the Economy Act of 1932, as amended, 31 U.S.C. 1535.

(c) The determination of a hearing official designated under this section is considered to be an official certification regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514 and this part. A creditor agency may make a certification to the Secretary of the Treasury under 5 CFR 550.1108 or a paying agency under 5 CFR 550.1109 regarding the existence and amount of the debt based on the certification of a hearing official. If a hearing official determines that a debt may not be collected via salary offset, but the creditor agency finds that the debt is still valid, the creditor agency may still seek collection of the debt through other means, such as offset of other Federal payments or litigation.

§ 33.8 Voluntary repayment agreement in lieu of salary offset.

(a)(1) In response to the notice of intent to offset, the employee may propose to establish an alternative schedule for the voluntary repayment of the debt by submitting a written request to the Department official designated in the notice of intent to offset. An employee who wishes to repay the debt without salary offset shall also submit a proposed written repayment agreement. The proposal shall admit the existence of the debt, and the agreement must be in such form that it is legally enforceable. The agreement must:

- (i) Be in writing;
- (ii) Be signed by both the employee and the Department;
- (iii) Specify all the terms of the arrangement for payment; and
- (iv) Contain a provision accelerating the debt in the event of default by the employee, but such an increase may not result in a deduction that exceeds 15 percent of the employee's disposable pay unless the employee has agreed in writing to deduction of a greater amount.

45 CFR Subtitle A (10-1-20 Edition)

(2) Any proposal under paragraph (a)(1) of this section must be received by the Department within 30 days of the date of the notice of intent to offset.

(b) In response to a timely request as described in paragraph (a) of this section, the designated Department official shall notify the employee whether the proposed repayment schedule is acceptable. It is within the Secretary's discretion to accept a proposed alternative repayment schedule, and to set the necessary terms of a voluntary repayment agreement.

(c) No voluntary repayment agreement will be binding on the Secretary unless it is in writing and signed by both the Secretary and the employee.

§ 33.9 Special review.

(a) A Department employee subject to salary offset or a voluntary repayment agreement may, at any time, request a special review by the Secretary of the amount of the salary offset or voluntary repayment installments, based on materially changed circumstances, such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b)(1) In determining whether an offset would prevent the employee from meeting essential subsistence expenses, e.g., food, housing, clothing, transportation, and medical care, the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

- (i) Income from all sources;
- (ii) Assets and liabilities;
- (iii) Number of dependents;
- (iv) Food, housing, clothing, transportation, and medical expenses; and
- (v) Exceptional and unusual expenses, if any.

(2) When requesting a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents as described in paragraph (b)(1) of this section, stating why the current salary offset or payments result in an extreme financial hardship to the employee.

(c)(1) The Secretary shall evaluate the statement and supporting documents, and determine whether the