

contract that provides for notice and other procedural protections.

(4) Offset may commence without the notification required by paragraph (b) of this section when the offset is in the nature of a recoupment. As defined in 31 CFR 900.2(d), recoupment is a special method for adjusting debts arising under the same transaction or occurrence.

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(f) When collecting multiple debts by administrative offset, VA shall apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitation. In accordance with 31 CFR 901.3(a)(4), VA may not initiate offset to collect a debt more than 10 years after VA's right to collect the debt first accrued (with certain exceptions as specified in § 901.3(a)(4)).

(g) When VA refers delinquent debts to Treasury for centralized administrative offset in accordance with 31 CFR part 285, VA must certify that:

(1) The debts are past due and legally enforceable; and

(2) VA has complied with all due process requirements under 31 U.S.C. 3716(a) and paragraphs (b) and (c) of this section. Payments that are prohibited by law from being offset are exempt from centralized administrative offset.

(h) In accordance with 31 U.S.C. 3716(f), the Secretary of the Treasury may waive the provisions of the Computer Matching and Privacy Protection Act of 1988 concerning matching agreements and post-match notification and verification (5 U.S.C. 552a(o) and (p)) for centralized administrative offset upon receipt of a certification from a creditor agency that the due process requirements enumerated in 31 U.S.C. 3716(a) and paragraphs (b) and (c) of this section have been met. The certification of a debt in accordance with paragraph (g) of this section will satisfy this requirement. If such a waiver is granted, only the Data Integrity Board of the Department of the Treasury is required to oversee any matching activities, in accordance with 31 U.S.C. 3716(g).

(i)(1) Unless the offset would not be in VA's best interest, or would otherwise be contrary to law, VA will comply with requests by creditor agencies to offset VA payments (except for current salary or benefit payments) made to a person indebted to the creditor agency. However, before VA may initiate offset, the creditor agency

must certify in writing to VA that the debtor has been provided:

(i) Written notice of the type and amount of the debt and the intent of the creditor agency to use administrative offset to collect the debt;

(ii) The opportunity to inspect and copy agency records related to the debt;

(iii) The opportunity for review within the agency of the determination of the indebtedness; and,

(iv) The opportunity to make a written agreement to repay the debt.

(2) Procedures for current salary offset are set forth at §§ 1.980–1.995.

Procedures for offset of VA benefit payments are set forth at § 1.912a.

16. Section 1.912a is amended by adding paragraph (c)(4) to read as follows:

§ 1.912a Collection by offset—from VA benefit payments.

* * * * *

(c) * * *

(4) VA will pursue collection action once an adverse initial decision is reached on the debtor's request for waiver and/or the debtor's informal dispute (as described in § 1.911a(c)(1)) concerning the existence or amount of the debt, even if the debtor subsequently pursues appellate relief in accordance with parts 19 and 20 of this title.

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§ 1.913 [Removed]

§ 1.914 [Removed]

§ 1.915 [Removed]

17. Sections 1.913, 1.914, and 1.915 are removed.

§ 1.916 [Redesignated as § 1.913]

18. Section 1.916 is redesignated as § 1.913 and is revised to read as follows:

§ 1.913 Liquidation of collateral.

(a) VA should liquidate security or collateral through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, and apply the proceeds to the applicable debt, if the debtor fails to pay the debt within 180 days after demand and if such action is in the best interest of the United States. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor, unless such action is expressly required by statute or contract.

(b) When VA learns that a bankruptcy petition has been filed with respect to a debtor, VA should seek legal advice from the VA General Counsel or Regional Counsel concerning the impact of the Bankruptcy Code, including, but

not limited to, 11 U.S.C. 362, to determine the applicability of the automatic stay and the procedures for obtaining relief from such stay prior to proceeding under paragraph (a) of this section.

§ 1.917 [Redesignated as § 1.914]

19. Section 1.917 is redesignated as § 1.914 and is revised to read as follows:

§ 1.914 Collection in installments.

(a) Whenever feasible, VA shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, VA may accept payment in regular installments. VA should obtain financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations whenever possible. If VA agrees to accept payments in regular installments, VA should obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and contains a provision accelerating the debt in the event of default.

(b) The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in 3 years or less.

(c) Security for deferred payments should be obtained in appropriate cases. However, VA may accept installment payments if the debtor refuses to execute a written agreement or to give security.

§ 1.918 [Removed]

20. Section 1.918 is removed.

§ 1.919 [Redesignated as § 1.915]

21. Section 1.919 is redesignated as § 1.915 and is amended by:

A. Revising the heading and paragraphs (a) and (c).

B. In paragraph (d), removing “§ 1.919” and adding, in its place, “this section”.

C. Removing paragraphs (f)(2)(i) and (ii).

D. Revising paragraph (g).

The revisions read as follows:

§ 1.915 Interest, administrative costs, and penalties.

(a) Except as otherwise provided by statute, contract, or other regulation to the contrary, and subject to 38 U.S.C. 3485(e) and 5302, VA shall assess:

(1) Interest on all indebtedness to the United States arising out of participation in a VA benefit, medical