

VA Financial Policies and Procedures
General Policy - COWC

CHAPTER 1

0101 OVERVIEW	2
0102 POLICIES	3
0103 AUTHORITY AND REFERENCES	4
0104 ROLES AND RESPONSIBILITIES	5
0105 PROCEDURES	9
0106 DEFINITIONS.....	19
0107 RESCISSIONS.....	19
0108 QUESTIONS	19

0101 OVERVIEW

This chapter provides guidance on the financial policies and procedures for the waiver or compromise of debt due the Department of Veterans Affairs (VA). VA, under applicable statutes referenced in this chapter, will consider waiver or a compromise offer of debt for VA benefit payments, medical care services, employee erroneous pay and allowances and the homeless providers grant and per diem program.

Committees on Waivers and Compromises (COWC) exist because Congress specifically provided in 38 U.S.C. 5302 that any Veteran payee or beneficiary indebted to VA as the result of participation in a VA benefits program has the right to request a waiver of repayment of that debt. A person can also offer a compromise settlement on a debt (31 U.S.C. 3711 and 38 U.S.C. 3720). In addition, committees are authorized under 5 U.S.C. 5584 to consider waiver requests on erroneous payments of pay and allowances, including erroneous payments of travel, transportation and relocation expenses.

In accordance with 38 C.F.R. 17.105(a), a COWC is authorized to consider a request for waiver on debts, as described in 38 C.F.R. 17.102(a), resulting when Veterans Health Administration (VHA) hospital care or medical services are provided to a person who was thought to be, or tentatively determined to be, eligible for such care or services, but was subsequently determined to be ineligible.

In accordance with 38 C.F.R. 17.105(c), a debt resulting from the failure to pay a medication co-payment required by 38 U.S.C. 1722A is subject to waiver consideration under 38 U.S.C. 5302(a). 38 C.F.R. 17.105(c) also authorizes the Secretary of Veterans Affairs to waive a Veteran's debt resulting from failure to pay co-payments required in connection with receipt of VA hospital, nursing home or outpatient care. Requests for waiver of collection of all of these healthcare co-payment debts must be considered by VA medical center fiscal officers and their designees, rather than by the Committee on Waivers and Compromises (Committee). Facility directors are required to make the final station decision in the appeals process. Directors may designate others at their facilities to participate in reviewing appeals, but they are responsible for the final decision. For more details, see VHA Directive, "Delegation of Waiver Authority to VHA Fiscal Officers for Debts Resulting from Failure to Make Co-payments."

The authority for waiver consideration is found in [38 U.S.C. 5302](#) and [5 U.S.C. 5584](#) and the authority for compromise is found in [38 U.S.C. 3720 \(a\)](#) and [31 U.S.C. 3711](#). The limit on the amount of indebtedness that can be compromised is \$100,000 per debt. Standards for the compromise of debts are found at [38 C.F.R. 1.930–1.936](#) and [1.970](#). The duties, delegations of authority and all actions required of the COWC are accomplished under the direction of, and authority vested in, the director of the station where the Committee is located. Delegations of authority and limitations for waiver actions under 5 U.S.C. 5584 are set forth in [38 C.F.R. 1.963a](#).

Historically, the COWC have been located in each VA regional office and VA medical and regional office center. The Under Secretary for Benefits recently authorized the consolidation of the regional office committees into centralized committees located at selected field stations (see paragraph 010509 of this chapter – Jurisdiction). Therefore, any reference to a Committee action or function in this chapter can be to a Committee located at any of those regional offices designated by the Under Secretary for Benefits to perform the duties and responsibilities delegated by [38 C.F.R. 1.955](#) et seq. and this chapter. The term *regional office*, as used in 38 C.F.R. 1.955 and this chapter, may include VA medical and regional office centers where committees are established.

The Committee will consist of a chairperson and alternate chairperson and as many Committee members and alternate members as the Director of the station where the Committee is located may appoint. Members and alternates will 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.

When a claim is properly referred to the Committee for either waiver consideration or the consideration of a compromise offer, the chairperson will 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 only one Committee member. This one Committee member will have experience in the program area where the debt is located. The single panel member's decision will 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 will assign two Committee members. One of the two members will be knowledgeable in the program area where the debt arose. If the two-member panel cannot reach a unanimous decision, the chairperson will assign a third member of the Committee to the panel or assign the case to three new members, and the majority vote will determine the Committee decision.

The assignment of a one- or two-member panel is applicable if the debtor files a Notice of Disagreement (NOD) with a Committee decision to deny waiver. That is, if the NOD 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 NOD will also be assigned to one panel member. Likewise, a NOD filed with a decision by a two- or three-member panel to deny waiver of collection of a debt of more than \$20,000 will also be assigned to a Committee panel of two members (three if these two members cannot agree). The chairperson must assign the NOD to a different one-, two- or three-member panel than the panel that made the original Committee decision.

0102 POLICIES

010201 The director of a regional office where a Committee is established by the Under Secretary for Benefits will designate membership on the Committee.

010202 The fiscal officer of a station will normally have the responsibility for the administrative control of each Committee. However, the station director will have the authority to reassign the administrative control function to another station activity, rather than the fiscal officer, whenever the director or Under Secretary determines that such reassignment is appropriate. The term “administrative control function” will be used throughout Volume XI to describe either the Finance Office or other station activity that has been assigned the administrative control of the station Committee.

010203 The Committee will have independent decision-making authority. Neither the Under Secretary for Benefits or Health, nor the station director, the chairperson or any division chief or employee will attempt to dictate or influence the vote of any assigned member on any issue. This prohibition does not pertain to instructional or interpretive presentations by the Regional Counsel or others not related to an impending decision on a particular matter.

010204 The chairperson will have responsibility for the supervision and overall quality control of the Committee and its professional and clerical staff. This control will also entail a quality review of Committee actions, including elapsed time standards review.

010205 The chairperson will normally represent the Committee in dealing with other divisions and top management.

0103 AUTHORITY AND REFERENCES

010301 [5 U.S.C. 5584, Claims for Overpayment of Pay and Allowances of Travel, Transportation, Relocation Expenses and Allowances](#)

010302 [31 U.S.C. 3711, Collection and Compromise](#)

010303 [38 U.S.C. 3720 \(a\), Powers of Secretary](#)

010304 [38 U.S.C. 5302, Waiver of Recovery of Claims by the United States](#)

010305 [38 C.F.R. 1.930, Scope and Application](#)

010306 [38 C.F.R. 1.931, Bases for Compromise](#)

010307 [38 C.F.R. 1.932, Enforcement Policy](#)

010308 [38 C.F.R. 1.933, Joint and Several Liability](#)

010309 [38 C.F.R. 1.934, Further Review of Compromise Offers](#)

010310 [38 C.F.R. 1.935, Consideration of Tax Consequences to the Government](#)

- 010311 [38 C.F.R. 1.936, Mutual Releases of the Debtor and VA](#)
- 010312 [38 C.F.R. 1.955\(b\), Regional Office Committees on Waivers and Compromises](#)
- 010313 [38 C.F.R. 1.956, Jurisdiction](#)
- 010314 [38 C.F.R. 1.957, Committee Authority](#)
- 010315 [38 C.F.R. 1.962, Waiver of Overpayment](#)
- 010316 [38 C.F.R. 1.963a, Waiver, Erroneous Payments of Pay and Allowances](#)
- 010317 [38 C.F.R. 1.966, Scope of Waiver Decisions](#)
- 010318 [38 C.F.R. 1.970, Standards for Compromise](#)
- 010319 [38 C.F.R. 2.6\(e\)\(4\), Secretary's Delegation of Authority to Certain Officials](#)
- 010320 [38 C.F.R. 2.6\(e\)\(11\), Secretary's Delegation of Authority to Certain Officials](#)
- 010321 [38 C.F.R. 3.103\(c\), Procedural Due Process and Appellate Rights](#)
- 010322 [38 C.F.R. 17.102\(a\), Charges for Care and Services](#)
- 010323 [38 C.F.R. 20.101\(c\), Jurisdiction of the Board](#)

0104 ROLES AND RESPONSIBILITIES

010401 The Assistant Secretary for Management/Chief Financial Officer (CFO), as required by the Chief Financial Officers Act of 1990 and 38 U.S.C. 309, oversees all financial management activities relating to the Department's programs and operations. Specific responsibilities include the direction, management and provision of policy guidance and oversight of VA's financial management personnel, activities and operations. The CFO establishes financial policy, systems and operating procedures for all VA financial entities and provides guidance on all aspects of financial management.

010402 Under Secretaries, Assistant Secretaries, Chief Financial Officers, Fiscal Officers, Chief Accountants and other key officials are responsible for ensuring compliance with the policies and procedures set forth in this chapter.

010403 Regional office directors and directors of VA medical and regional office centers will appoint a Committee chairperson, members and alternates in accordance with 38 C.F.R. 1.955(b).

010404 VA Central Office

In accordance with 38 C.F.R. 1.956(b), the Under Secretary for Benefits may assume original jurisdiction of any matter that the Committee has authority to consider, but for which it has not rendered a decision on the issue involved. The Under Secretary for Benefits will establish an ad hoc Board to determine the particular issue. It is contemplated that such authority will be used sparingly, only in circumstances that involve a unique case.

The Central Office staff of the Deputy Assistant Secretary for Finance (047) will supply advice for general application on its own initiative on questions of jurisdiction, policy and procedure not limited to a particular case over the signature of either the Deputy Assistant Secretary (047) or the Under Secretary for Benefits. This finance staff (047) will do the same on principles for evaluation, adequacy of evidence and factors for consideration in individual cases on request of the Committee chairperson.

010405 The Committee Chairperson

The chairperson of the Committee will have several diverse responsibilities, including:

- A. Knowledge of Competence of Alternate Chairperson, Members and Alternates. In order to designate efficient panels, the chairperson must be aware of the expertise and ability of each of the individuals available for panel assignment.
- B. Assignment of panel members and designation of reporting member.
- C. Meeting or Rotation. The chairperson will determine and advise the panel members whether consideration of the particular case will be accomplished in a meeting of the panel or by rotating the case among the members. The chairperson may change this decision for cause.
- D. Receiving, Recording and Transmitting Decision. The reporting member will submit the signed decision to the chairperson. The decision will be recorded and then transmitted to the administrative control function.
- E. Management of Workload. The chairperson is responsible for prompt decisions in all cases. The chairperson will look to the reporting member for prompt action on each individual case.
- F. Chronological Assignment. Except in emergency conditions, the chairperson will assign cases based on the date of receipt. Cases will not be accumulated for assignment.
- G. Problem Recognition and Solution. The chairperson will analyze any problems that may arise. He or she may convene the Committee to assist in identification, analysis and solution of any problem. Matters that require assistance outside of the Committee's

authority or expertise will be referred to the Regional Counsel with the chairperson's recommendation for a solution.

H. Requesting Advice from the Regional Counsel. Requests for advice from the Regional Counsel will be of two types:

1. Formal Opinions. In cases where the Committee requires a formal opinion of the Regional Counsel before it can arrive at a decision, the reporting member will prepare the request for the chairperson's signature. The chairperson will sign and record the issuance of the request, deliver it to the Regional Counsel and notify the Committee to suspend consideration (see chapter 6, paragraph 060501). Upon receipt of the Regional Counsel's opinion, the chairperson will record its receipt and deliver it to the reporting member for consideration. It is not contemplated that there will be a high volume of requests for opinion. Litigation risks and legal merits (not solvable prior to referral to the Committee) are examples of matters requiring advice of the Regional Counsel.

2. General Information. The chairperson may seek and obtain from the Regional Counsel any required information on general matters of concern to the Committee. Examples are: approximate backlog of Government civil claims cases in the local district court (time from filing to judgment and time elapsed to collect by enforced collection); probable court costs against the United States in the event of an unsuccessful suit; and approximate reduction from fair market value of assets if sold at forced sale in the particular locality.

I. Requesting Advice from the Central Office Staff (047). The chairperson may request advice from the Central Office staff of the Deputy Assistant Secretary for Finance (047) on:

1. Individual cases when the Committee is uncertain as to the proper action to be taken.

2. General questions as to jurisdiction, policy or procedure of the Committee. Submission to Central Office staff will not be requested when it would have the effect of merely affording an intermediate step between the Committee and the Board of Veterans Appeals (BVA).

J. Influencing the Committee or Panel

1. Assigned Case. The chairperson is not authorized to direct a panel of the Committee to arrive at a particular decision in a case. As a panel member, he or she may, as may any member, attempt only to persuade other members as to the correctness of his or her viewpoint.

2. General Application of Policy or Procedure. The chairperson may and should convene the Committee and alternates to inform them of any variations from

established policy or mandatory procedure that have come to his or her attention in connection with Committee or panel action on cases.

K. **Signature on Statement of the Case.** The chairperson will sign the Statement of the Case (SOC) as approving official. The chairperson will also review all cases prior to certification to BVA in order to determine whether the debtor has submitted any new evidence that relates to the issues before the Committee since the issuance of the SOC. If new evidence has been submitted, the chairperson will refer it to the panel member(s) who issued the SOC for further review and a determination as to whether it is pertinent. If the new evidence is pertinent to the issue before the Committee, the panel must issue a Supplemental Statement of the Case (SSOC). The chairperson also will sign the SSOC, if any.

L. **Signature on Correspondence.** The chairperson will sign correspondence concerning the development of evidence relating to an issue pending before the Committee. The correspondence will usually be prepared by the reporting member.

010406 The Reporting Member

The member designated by the chairperson as the reporting member will be responsible for:

- A. The timely consideration, individually or by the panel, of the matter at issue.
- B. Preparation of necessary correspondence.
- C. Preparation of the panel or single signature decision. In cases where there is either a waiver denial or compromise rejection, the reporting member will exercise special care to write the reasons for the denial.
- D. Notification to the chairperson when a two-member panel is not in agreement.
- E. Obtaining the members' signatures on the decision.
- F. Preparation of supporting documents, if necessary.
- G. Submission of signed decisions, with files, to the Committee chairperson. Copies of the decision forwarded to other stations or the Debt Management Center (DMC) must be signed.
- H. Preparation of necessary copies of decisions, before or after submission, as is feasible.
- I. Preparation of SOC and SSOC when necessary. The reporting member must ensure that he or she has specifically answered all substantive arguments advanced by the claimant and obtained all necessary signatures.

J. Notification to the accredited representative, if any, to file VA Form 646, Statement of Accredited Representative in an Appealed Case.

K. Preparation of VA Form 1-8, Certification of Appeal, when needed.

L. Presiding over any meetings of panel members or hearings conducted at the debtor's request.

010407 Committee Liaison

The Committee liaison at each regional office provides information to the Committee and performs administrative work, such as filing waiver documents, setting up hearings, etc.

0105 PROCEDURES

010501 The Committee is a decision-making body. The Committee will:

A. Consider evidence presented to it and reach conclusions on the debt collection problem presented, based on that evidence.

B. Help the debtor obtain additional evidence that relates to any issue raised by the debtor in conjunction with his/her waiver request.

C. Not criticize or attempt to manage any aspect of VA operations.

D. Reject a request for Committee action not within the Committee's delegated authority.

E. Not normally establish case files.

F. Maintain a statistical record of Committee actions and material of precedent value.

G. Refer an issue by memorandum to the appropriate division chief of the program area or operating division concerned, with a statement of reason for referral, when the Committee has substantial reason to question the propriety of the action on which the debt is established or the amount of the debt established.

010502 Signing COWC Decisions

Single signature decisions will be signed by the reporting member; unanimous panel decisions will be signed by the reporting member and other panel members, as appropriate. The chairperson will sign a decision only if authorized to vote as a panel member. In a case where the two-member panel disagrees, no decision is made by the panel. The disagreement will be indicated on the appropriate form by signature and the

word "Disagree." Stamped or endorsed across the decision form will be "No Decision-- Referred to Full Committee." This form will be attached to a new decision form that reflects the decision of the full three-member panel of the Committee. When the full three-member panel is not in agreement, the dissenting member will so indicate by adding the word "Disagree" after his or her signature. The dissenting member will attach a statement providing the reasons for his or her dissent to the new decision.

010503 Reasons for COWC Decisions

All Committee decisions must include an explanation of how they were reached. The reasons given must reflect the facts that are material to the issue decided and be conscientiously written for incorporation into the subsequent letter. If information requested of the debtor is not received, then the decision is normally made on the evidence of record and will specifically state this fact.

The Committee will make every effort to make a decision based on all available evidence. This would include information contained in a debtor's claims folder/loan docket and any other information that the debtor provides at the time of the waiver request or hearing. If a Committee cannot grant a waiver decision because it lacks evidence or information on the validity or creation of the debt, the member(s) will prepare and sign a memorandum to the Chairperson that a decision cannot be made for that reason.

The memorandum will be sent to the local Regional Counsel, along with whatever information is available, for the Regional Counsel's determination on whether the debt is legally enforceable. This situation occurs most often in older loan program cases, where the loan docket has either been lost or destroyed, and VA is now attempting to collect the debt by offset from the debtor's current benefit payments. If the Regional Counsel determines that the debt is legally enforceable, then the case will be returned to the Committee member(s) for a decision on the waiver request. If the Regional Counsel determines that the debt is not legally enforceable, then collection on the debt will be terminated by either the local fiscal officer or the DMC, depending on jurisdiction.

010504 COWC Hearings Before Committee

A. General. In accordance with [38 C.F.R. 1.966](#), personal hearings will be granted upon receipt of a specific request from the debtor or his/her representative. The Government will not pay any expenses incurred incident to a hearing by the debtor, his/her representative or any witness. The chairperson or administrative control function will notify the interested parties of the time and place of the hearing.

B. When a request for a Committee hearing is made in a waiver case, the hearing will be conducted in the manner prescribed in [38 C.F.R. 3.103\(c\)](#) and M21-1, Part I, paragraphs 18.17 and 18.18. The debtor ordinarily will be given a hearing prior to the initial Committee decision and prior to the issuance of a SOC. The hearing panel must be composed of the same Committee members who are making the waiver decision.

The number of members must be the same as the number of Committee members required to make the decision on the waiver request or NOD. For example, if only one Committee member is required to make a Committee decision, only one hearing panel member is necessary, and that member will also make the Committee decision. However, if more than one Committee member is required to make a decision, there must be the same number of Committee members on the hearing panel. The members assigned to the hearing panel must be the same members assigned to make the decision on behalf of the Committee. However, if the debtor requests a hearing (or rehearing) after a Committee decision, then the hearing panel must be composed of different Committee members than those who rendered the previous Committee decision.

1. If the debtor cannot travel to the station where the Committee of jurisdiction is located, the hearing may be held at a station that is more accessible to him or her. A Committee may conduct a hearing in which the claimant or his/her representative participates by telephone or video conference. The Committee liaison at the station of jurisdiction and the station hosting the hearing will work together to schedule and manage the hearing. Any such hearing will be in lieu of a hearing held personally before a Committee and will be conducted in the same manner as, and considered equivalent to, such a hearing. The Committee that conducts the hearing must also consider and make the decision on the debtor's request for waiver.
2. The Committee's decision will always refer to and contain a discussion of any evidence derived from a hearing.
3. A hearing will normally be rescheduled for good cause, at the debtor's request, if he or she is unable to attend the scheduled hearing. Examples of good cause include the following: illness of the debtor or representative, difficulty obtaining records and unavailability of a witness. If possible, a debtor who misses a second hearing will be contacted to determine whether he/she was aware of the scheduled hearing and the reason, if any, for his/her failure to attend. A third hearing date will be scheduled only if it is found that there were compelling reasons that prevented the debtor from attending the first two scheduled dates and there is reasonable cause to believe that the debtor will be able to attend a rescheduled hearing. However, if a debtor fails to appear at a scheduled hearing without good cause, the Committee will render a decision based on the available evidence. This decision will note the debtor's failure to appear for the hearing and will include an explanation of the basis for the Committee's finding that such failure was without good cause.
4. As stated in subparagraph B above, a hearing will normally be conducted prior to either the initial Committee decision or the issuance of a SOC. However, if the debtor so requests, a hearing will be conducted after the issuance of either the initial waiver decision or the issuance of the SOC.

A debtor must be accorded a hearing on appeal, if requested, irrespective of whether he/she was granted a hearing in connection with the initial Committee consideration of the waiver application.

5. The notice of time and place of hearing will be signed by the chairperson.
6. Argument, witness testimony, if any and evidence received during the hearing will be considered by the Committee in making its determination. A complete transcript must be incorporated into the record. In any instance when a formal hearing is not requested but there is personal contact and discussion, a report will be made of the conversation with the claimant(s) and/or their representative(s). The report of contact must be complete and reflect an accurate summary of the conversation that took place. The Committee will consider any such evidence. If it is not clear whether a claimant or representative desires a hearing, this should be clarified and, if requested, a hearing held.
7. Hearings Involving Debts from the Homeless Providers Grant and Per Diem Program. In accordance with 38 C.F.R. 1.966(a), an indebted homeless provider is entitled to request a hearing in conjunction with its waiver request. Employees or representatives of the indebted entity will be treated in the same manner as any individual beneficiary in the conduct of any hearing.
8. If the claimant requests a hearing before BVA after the receipt of a SOC or SSOC, field station personnel cannot conduct a hearing as agents for BVA. Rather, such a hearing must be conducted at BVA in Washington, DC, or held at a VA field facility (38 C.F.R. 19.75 and 19.76 and 20.703 and 20.704). Requests for hearings before the BVA held at VA field facilities must be marked to show the date of receipt and must be promptly entered in the field facility's hearing docket.
9. There is no right to a hearing before the Committee concerning any issue raised with a compromise offer.
10. There is no statutory or regulatory requirement to conduct a hearing for erroneous employee salary payments or allowances.

010505 COWC Correspondence

A. The purpose of this paragraph is to establish procedures for correspondence with the debtor on Committee matters. These paragraphs should be consulted to determine which Committee has jurisdiction over a particular waiver request or compromise offer.

Note: This paragraph is not applicable when a centralized Committee system is used, instead of a regional office Committee system. A Committee that is part of a centralized system is responsible for correspondence with the debtor who has requested a waiver or compromise of his/her indebtedness. In a centralized system, the initial request for waiver or compromise may be received by a regional office or the DMC, but such

correspondence will be immediately referred to the Committee of jurisdiction at either a Pension Maintenance Center (PMC) or a Regional Processing Office (RPO).

B. The station where the Committee of jurisdiction is located, as established in paragraph 010509, is responsible for all correspondence to the debtor concerning Committee matters, except in cases under the jurisdiction of the DMC and cases involving waiver of erroneous payments of pay and allowances, which are discussed in the note below.

Note: Correspondence concerning hearing dates is the responsibility of the station where the Committee conducting the hearing is located. If the station where the Committee of jurisdiction is located is not the station where the debtor's claims folder is permanently located, or is not the station responsible for the collection of the debt, the station where the Committee of jurisdiction is located must provide copies of all correspondence and Committee decisions to these other stations for insertion in the claims folder.

C. In cases involving the erroneous payment of pay and allowances, the chief of the fiscal office at the station responsible for preparing the report of investigation and collection of the debt is also responsible for all correspondence to the debtor, including the initial notice of indebtedness with the right to request waiver. The administrative control function where the Committee of jurisdiction is located is responsible for forwarding the Committee's decision or recommendation on the request for waiver to the station responsible for collection of the debt. If that location's administrative control function is not responsible for collection of the debt, then he/she is not responsible for any correspondence to the debtor.

D. In DMC cases, whenever the Committee denies a waiver or grants a partial waiver, the station of Committee jurisdiction is responsible for all correspondence to the debtor pertaining to the waiver decision or subsequent appellate action on that decision. However, when the Committee of jurisdiction grants a full waiver, the DMC has sole responsibility for notifying the debtor of the Committee's decision. The DMC will be provided with a copy of all signed Committee decisions and notified of any appellate actions on a Committee decision. The station of Committee jurisdiction will also provide copies of correspondence and Committee decisions to other stations that maintain the claims folders or other debtor records.

010506 Debts Resulting from Medical Care or Services

A. A Committee may consider a compromise offer on most debts that result from care or services furnished by VHA. However, in accordance with [38 C.F.R. 2.6\(e\)](#), the Office of General Counsel has exclusive jurisdiction over debts for care and services when the liability for such debts rests with a third party or legal entity or when such debts involve claims under workmen's compensation or employer liability status.

B. A request for waiver of a debt resulting from medical care or services furnished in error will normally be submitted by the debtor to the VHA fiscal office where the debt arose. The Chief of the VHA Fiscal Office will forward this request to the Veterans Benefits Administration (VBA) station of jurisdiction. The administrative control function at that station will process the waiver request in the same manner as any other request for waiver of benefit indebtedness. The VHA fiscal office will be responsible for the development of evidence pertaining to the creation of the debt which will be forwarded, along with the request, to the administrative control function at the station where the Committee of jurisdiction is located. The administrative control function and the chairperson of the Committee are responsible for complete development of the waiver decision, any SOC based upon a NOD with the waiver decision, the submission of any substantive appeal of the waiver decision to the BVA and all correspondence to the debtor pertaining to Committee activity. The administrative control function is to promptly inform the VHA fiscal office of both the Committee's decision on the waiver request and any appellate action related to such decision so that collection by the VHA fiscal office may proceed accordingly.

010507 VA Employee's Request for Waiver or Compromise of Indebtedness by VA Employee

In the interest of fairness and to ensure the utmost objectivity in considering a VA employee's request for waiver or compromise, a Committee will not exercise jurisdiction over such a request made by an employee of the same station where the Committee is located. If the debtor who requests waiver or offers a compromise is an employee of the station where the Committee of jurisdiction is located, then the administrative control function at that station will refer the request or offer to another Committee.

010508 Requests for Waiver of Erroneous Payment of Pay and Allowances

The Government Accountability Act of 1996 (GAO Act of 1996), Public Law 104-316, October 19, 1996, provided for the transfer of the Comptroller General's authority under 5 U.S.C. 5584 to prescribe standards for and to waive collection of Government claims against Federal employees arising out of the erroneous payments of pay and allowances and of travel, transportation and relocation expenses. Congress delegated the Comptroller General's authority to the Director of OMB. On December 17, 1996, the Director of OMB delegated the authority to waive collection of erroneous payments made to civilian employees under 5 U.S.C. 5584 to the Executive Branch agency that made the erroneous payment.

A. All requests for waiver of an erroneous payment of pay or allowances must be submitted to the Committee. A Committee has unlimited authority to consider and then grant or deny requests for waiver of erroneous payments of pay and allowances and of travel, transportation and relocation expenses, regardless of the amount of indebtedness. In the event that the Committee denies such a request for waiver, the chief of the fiscal office at the station responsible for collection of the debt will provide the employee with notice of the right to appeal the denial of waiver. The denial of a

request for waiver of an erroneous payment of pay or allowances by the Committee cannot be appealed to the BVA. However, upon receipt of an appeal, the chief of the fiscal office responsible for collecting the debt will forward the request for appeal, along with the Committee's waiver decision, the report of investigation and all other pertinent information, to the administrative control function at the station where the Committee that rendered the original decision to deny the waiver is located. The Committee will consider the employee's appeal. However, the chairperson of the committee must assign the appeal to a different Committee member(s) than the member(s) who made the original decision. The administrative control function at the station where the Committee is located will forward the Committee's decision on the appeal to the chief of the fiscal activity responsible for collecting the debt, who in turn will provide the employee with a copy of the decision. The employee must also be informed at this time that the decision is the final decision of VA on the employee's request for waiver.

B. The collection of an erroneous payment of pay or allowances, as well as any accrued interest, administrative costs or penalties, will be waived when the collection would be against equity and good conscience and not in the best interest of the Government. In accordance with [38 C.F.R. 1.963a\(b\)](#), collection will be against equity and good conscience and not in the best interest of the Government when it is determined that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the debtor or any other person having an interest in obtaining waiver of the debt. Generally, waiver is precluded when an employee or another person with an interest in obtaining the waiver receives a significant unexplained increase in pay or allowances, or otherwise knew or reasonably should have known, that an erroneous payment occurred and failed to make inquiries or bring the matter to the attention of the appropriate officials. Waiver under this standard must depend on the facts of the particular case. The facts on which the waiver is based are to be recorded in detail in the Committee's decision. Hardship or detriment caused by collection is never considered in a waiver of erroneous pay or allowances.

C. The Committee decision on a request for waiver of erroneous payment of pay or allowances will be in the narrative format (see chapter 4, paragraph 040501C (2)(b)) and not on VA Form 4-1837.

D. In accordance with [38 C.F.R. 1.955\(e\)\(2\)](#), if the debt is \$20,000 or less, exclusive of interest and other late payment charges, a single panel member may consider the waiver request and his/her signature alone to the decision will be sufficient.

E. In contractual obligations arising from such agreements as payment of physician and dentist special pay or from authorization of a recruitment or relocation bonus, Committee jurisdiction is limited to a waiver of erroneous payments made to administer the agreement. Once the agreement itself is breached (e.g., by separation from employment or because of misconduct resulting in failure to complete any of the years of obligated service under the agreement), any refunds required because the agreement was breached may be waived only as specified in applicable policy. For

example, only the Under Secretary for Health may approve waivers of special pay refunds due as a result of a breached special pay agreement. See MP-5, Part II, Chapter 3, Section B for policies on physician and dentist special pay. The Deputy Assistant Secretary for Human Resources Management (05) has authority to approve waivers of debts arising from the breach of recruitment and relocation contracts. See MP-5, Part I, Chapter 575 for policies on recruitment and relocation bonuses.

F. The administrative control function at the station where the Committee of jurisdiction is located will maintain a written record of each case considered for waiver by the Committee. This record will be created in the name of the debtor and will consist of a copy of the Committee decision or recommendation, the report of investigation and any other pertinent information on which the Committee based its decision.

G. Public Law 99-224 (December 28, 1985) amended 5 U.S.C. 5584 by expanding waiver authority to include the authority to waive erroneous payments of travel, transportation and relocation expenses and allowances. See also 38 C.F.R. 1.963a(b). This expanded authority applies only to overpayments or erroneous payments made on or after December 28, 1985.

1. Any bill of collection issued for an overpayment or erroneous payment of travel, transportation and relocation expenses and allowances must be accompanied by a notice of the employee's right to request a waiver of collection of the debt.
2. An erroneous travel advance is also appropriate for waiver, but only to the extent that the advance was made to cover expenses erroneously authorized; the employee relied on the authorization as proper; and the employee actually spent the advance on the duly authorized, but erroneous, travel orders. In addition, waiver is appropriate only to the extent that an employee is indebted to the Government for repayment of the amount advanced after the advance has been applied to legitimate expenses. For example, if an employee has legitimate expenses, the travel advance must first be applied against the legitimate expenses. Any outstanding amount of the advance left after such application to legitimate expenses can be considered for waiver. Therefore, notice of the right to request waiver will be sent to those employees who still have a net outstanding travel advance, after such advance has been applied to legitimate expenses.
3. Debts arising because VA has to pay commercial carrier excess charges on a Government bill of lading (GBL) are normally not subject to waiver consideration. These excess charges usually arise because the employee exceeded his or her authorized weight allowance or because the employee obtained extra services or insurance from the carrier. The employee's resulting debt to VA does not arise out of an erroneous payment and therefore is not subject to waiver consideration under Section 5584. However, waiver consideration may be appropriate in those cases where there was some Government error involved, such as erroneous orders.

4. Requests for waiver of erroneous payments of travel, transportation and relocation expenses and allowances will be considered in the same manner described in this paragraph for waiver requests of erroneous payments of pay or allowances.

H. There is no statutory or regulatory authority to conduct a hearing in conjunction with a request for waiver of an erroneous payment of pay and allowances.

I. Once the debtor receives an initial waiver decision, salary offset may commence, provided that all the requirements of [38 C.F.R. 1.980](#) et seq. have been met. If waiver is subsequently granted on appeal, any amounts collected by salary offset will be refunded.

010509 Jurisdiction

A. VBA has implemented a centralized Committee system. The jurisdiction for waiver/compromise consideration is as follows:

1. Pension Maintenance Centers (PMC). The PMCs are located at the Milwaukee, Philadelphia and St. Paul regional offices. These PMCs will consider all waiver requests concerning debts arising from compensation, pension, Chapter 31 and erroneous payments of pay and allowances (see paragraph 010508). The Committee located at the St. Paul Regional Office will also be responsible for consideration of all waiver requests concerning loan program debts, since the St. Paul Regional Office is also a Regional Loan Center.

2. Regional Processing Offices (RPO). The RPOs are located at the St. Louis, Atlanta, Muskogee and Buffalo regional offices. These RPOs will consider all waiver requests involving educational benefit debts. The St. Louis RPO is also exclusively responsible for all waiver requests, including NODs and compromise offers on Restored Entitlement Program for Survivors benefits under [38 C.F.R. 3.812](#)

3. Debt Management Center (DMC). The DMC has authority to consider all compromise offers on debts within its jurisdiction. Compromise offers on all other debts (e.g., erroneous payment of pay and allowances, medical care and services, etc.) will be considered by one of the three PMCs described in paragraph 010509.A.(1).

B. Currently VBA uses a centralized Committee system, and VHA uses regional office Committees. If a regional office Committee system is used, rather than a centralized Committee, waiver and/or compromise consideration will be taken by Committee as follows (procedures for waiver hearing are set forth in paragraph 010504):

1. Home Loan Program. Waiver actions will be processed at the Regional Loan Center or the station where the loan folder is maintained. Compromise actions will be processed by the DMC.

2. Compensation, Pension, Insurance and Vocational Rehabilitation actions will be processed where the claims folder is located.
 3. Medical Care/Services. A request for waiver/compromise offer will be within the jurisdiction of the Committee located at the regional office or medical and regional office center having jurisdiction over the VA facility in which the debt arose.
 4. Erroneous Pay and Allowances. A request for waiver/compromise offers by a VA employee will be within the jurisdiction of the regional office, medical and regional office center or center normally having jurisdiction of employee-Veteran's records, as provided in M23-1, Part 1, Paragraph 13.07. This jurisdiction applies to all personnel, including non-Veteran employees.
 5. Education. All waiver requests (including NODs) on overpayments or erroneous payments of benefits for education assistance programs administered by VA under Titles 10 and 38 of the U.S.C. are the exclusive jurisdiction of the COWC located at the St. Louis, Atlanta, Muskogee and Buffalo Regional Offices, whichever has jurisdiction of the individual education claim at issue.
 6. Homeless Providers Grant and Per Diem Program. All waiver requests and compromise offers will be submitted to the Director, Homeless Providers Grant/Per Diem Program (166E), located in VA Central Office. Once the request or offer is received in (166E), the request or offer will then be submitted to the Committee of jurisdiction.
- C. Notice of Disagreement (NOD). A NOD filed by a debtor whose waiver request has been denied will normally be considered by the same Committee that made the original or initial waiver decision. However, the chairperson must assign an NOD to panel members who did not participate in the Committee's original decision. Except in a case where this chapter specifically provides to the contrary, if the claims folder is permanently transferred to another station after the initial decision is made, the Committee at the station where the claims folder is now located has the responsibility to consider the NOD. If the claims folder is permanently transferred to another station after a SOC is issued, the Committee at the station where the claims folder has been permanently transferred will have the responsibility for any subsequent action on the case, including preparation of a SSOC or responding to a remand by the (BVA). Also see chapter 4, paragraph 040503.A(6).
- D. DMC Cases. A request for waiver will always be referred by the Debt Management Center (DMC) to the Committee at the station of jurisdiction, as described in paragraphs 010509.A. and B. A compromise offer or an untimely waiver request on a DMC account may be considered by a special Committee panel located at the DMC. A copy of any decision by this special panel on a compromise offer or the timeliness of a waiver request will be forwarded to the station where the debtor's claims folder or loan docket is located, for insertion in that folder.

E. Hearings. Except in cases involving a home loan program debt, the Committee that conducts a hearing in conjunction with a debtor's request for waiver must render the decision on that request. See paragraph 010504 for further details.

0106 DEFINITIONS

010601 Administrative Control Function. The finance and fiscal operations, as well as any other activity designated with administrative control, at the station Committee.

010602 Chairperson. The individual who manages the work of the Committee.

010603 Committee. The particular decision-making body, which may be composed of a one-person panel (38 C.F.R. 1.955(d)) or a panel composed of two or three members. The Committee may be part of a centralized system or a regional office Committee system.

010604 Compromise. Acceptance of less than the full amount of a debt in settlement and full satisfaction of the debt.

010605 Debt. A claim for money made by or owed to the Government, arising out of activities of VA. It includes overpayments (38 C.F.R. 1.962).

010606 Member. The individual who participates on the panel to review waiver requests and compromise offers. The individual has special competence and familiarity with one or more of the debt claim areas (i.e., compensation, pension, education, insurance, loan guaranty, etc.)

010607 Reporting Member. The individual who is designated by the chairperson to be the presiding officer over a panel.

010608 Waiver. VA's decision to give up the right to collect a valid debt, including interest and other late payment charges, which falls under the applicable statutes (38 U.S.C. 5302 and 5584) and regulations.

0107 RESCISSIONS

This chapter rescinds MP-4, Part I, Chapter 8, Section A, General Policy.

0108 QUESTIONS

Questions concerning these financial policies and procedures should be directed as shown below:

VBA
All Others

VAVBAWAS/CO/FINREP (Outlook)
OFF Accounting Policy (Outlook)