

(3) In making this determination, the hearing official shall consider—

(i) The income from all sources of the employee, and his or her spouse and dependents;

(ii) The extent to which the assets of the employee and his or her spouse and dependents are available to meet the offset and the essential subsistence expenses;

(iii) Whether these essential subsistence expenses have been minimized to the greatest extent possible;

(iv) The extent to which the employee and his or her spouse and dependents can borrow to satisfy the debt to be collected by offset or to meet essential expenses; and

(v) The extent to which the employee and his or her spouse and dependents have other exceptional expenses that should be taken into account, and whether these expenses have been minimized.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.9 Decision of the hearing official.

(a) The hearing official issues a written opinion within sixty days of the date on which the employee filed a request for a hearing under § 31.5, unless a delay in the proceedings has been granted at the request of the employee. In the opinion, the hearing official states his or her decision and the findings of fact and conclusions of law on which the decision is based.

(b) If the hearing official finds that a portion of the debt described in the pre-offset notice under § 31.3 is not enforceable by offset, the official shall state in the opinion that portion which is enforceable by offset.

(c) If the hearing official finds that the amount of the offset proposed in the pre-offset notice will cause an extreme financial hardship for the employee, the hearing official shall establish an offset schedule that will result in the repayment of the debt in the shortest period of time without producing an extreme financial hardship for the employee.

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.10 Request for repayment agreement.

(a) The Secretary does not initiate an offset under this part if the employee agrees in writing to repay the debt under terms acceptable to the Secretary and makes the first payment due under the agreement on or before the latest of—

(1) The seventh day after the date of the decision of the hearing official, if the employee timely requested a hearing under § 31.5 (a) and (d);

(2) The sixty-fifth day after the date of the pre-offset notice under § 31.3 if the employee did not timely request either a hearing in accordance with § 31.5 (a) and (d) or an opportunity to inspect and copy documents related to the debt under § 31.4; or

(3) The fifteenth day after the date on which the Secretary made available documents related to the debt, if the employee filed a timely request for documents under § 31.4.

(b) In the agreement, the Secretary and the employee may agree to satisfaction of the debt from sources other than an offset under this part, or may modify the amount proposed to be offset in the pre-offset notice or estimated in the decision of the hearing official.

(c) If the employee does not enter into a repayment agreement acceptable to the Secretary within the deadlines in this section, the Secretary may initiate an offset under this part. The Secretary continues to collect by offset until an employee enters in a satisfactory repayment agreement for the debt. The Secretary suspends an offset already commenced under circumstances described in § 31.5(a)(2).

(Authority: 5 U.S.C. 5514; 31 U.S.C. 3716)

§ 31.11 Offset process.

(a) The Secretary attempts to collect debts under this part within the shortest time authorized under—

(1) The offset schedule proposed in the pre-offset notice, unless modified by agreement or by the decision of a hearing official;

(2) A written repayment agreement with the employee; or