

## § 1.910

## 38 CFR Ch. I (7-1-04 Edition)

delinquent if the debtor fails to satisfy obligations under a repayment agreement with VA.

(c) As used in §§ 1.900 through 1.954, *referral for litigation* means referral to the Department of Justice for appropriate legal actions, except in those specified instances where a case is referred to VA Regional Counsel for legal action.

(Authority: 31 U.S.C. 3701, 3711)

[52 FR 42105, Nov. 3, 1987]

### STANDARDS FOR COLLECTION OF CLAIMS

AUTHORITY: Sections 1.910 to 1.921 issued under 72 Stat. 1114; 38 U.S.C. 501.

SOURCE: 32 FR 2613, Feb. 8, 1967, unless otherwise noted.

#### § 1.910 Aggressive collection action.

The Department of Veterans Affairs will take aggressive action, on a timely basis with effective followup, to collect all claims for money or property arising from its activities.

#### § 1.911 Collection of debts owed by reason of participation in a benefits program.

(a) *Scope.* This section applies to the collection of debts resulting from an individual's participation in a benefits program administered by the Department of Veterans Affairs. It does not apply to the Department's other claims collection activities. (Note: School liability debts are governed by § 21.4009; financial institution debts are subject to chapter II, parts 209, 210, and 240 of title 31, Code of Federal Regulations; and other debts are governed by part 102 of title 4 of the Code of Federal Regulations.)

(b) *Written demands.* When the Department of Veterans Affairs has determined that a debt exists by reason of an administrative decision or by operation of law, the Department of Veterans Affairs shall promptly demand, in writing, payment of the debt. The Department of Veterans Affairs shall notify the debtor of his or her rights and remedies in connection with the debt and the consequences of failure to cooperate with collection efforts. Ordinarily, no more than three demand letters, at intervals of not more than thirty days, will be sent, but letters subse-

quent to the initial letter will not be necessary if:

(1) The Secretary determines that further demand would be futile;

(2) The debtor has indicated in writing that he or she does not intend to pay the debt;

(3) Judicial action to protect the Government's interest is indicated under the circumstances; or

(4) Collection by offset pursuant to § 1.912a can be made.

(c) *Rights and remedies.* Subject to limitations referred to in this paragraph, the debtor has the right to informally dispute the existence or amount of the debt, to request waiver of collection of the debt, to a hearing on the waiver request, and to appeal the Department of Veterans Affairs decision underlying the debt. These rights can be exercised separately or simultaneously. Except as provided in § 1.912a (collection by offset), the exercise of any of these rights will not stay any collection proceeding.

(1) *Informal dispute.* This means that the debtor writes to the Department of Veterans Affairs and questions whether he or she owes the debt or whether the amount is accurate. The Department of Veterans Affairs will, as expeditiously as possible, review the accuracy of the debt determination. If the resolution is adverse to the debtor, he or she may also request waiver of collection as indicated in paragraphs (c)(2) and (3) of this section.

(2) *Request for waiver; hearing on request.* The debtor has the right to request waiver of collection, in accordance with § 1.963 or § 1.964, and the right to a hearing on the request. Requests for waivers must be filed in writing. A waiver request must be filed within the time limit set forth in 38 U.S.C. 5302. If waiver is granted, in whole or in part, the debtor has a right to refund of amounts already collected up to the amount waived.

(3) *Appeal.* The debtor may appeal, in accordance with part 19 of this title, the decision underlying the debt.

(d) *Notification.* The Department of Veterans Affairs shall notify the debtor in writing of the following:

(1) The exact amount of the debt;

(2) The specific reasons for the debt, in simple and concise language;