

## Department of Veterans Affairs

## § 1.962

or not there has been a prior denial of waiver.

(Authority: 31 U.S.C. 3711 and 38 U.S.C. 3720(a))

[44 FR 59906, Oct. 17, 1979, as amended at 51 FR 38803, Sept. 25, 1985; 52 FR 42112, Nov. 3, 1987; 57 FR 47264, Oct. 15, 1992; 60 FR 53276, Oct. 13, 1995]

### § 1.958 Finality of decisions.

A decision by the regional office Committee operating within the scope of its authority, denying waiver of all or a part of an overpayment is subject to appeal. There is no right of appeal from a decision rejecting a compromise offer.

(Authority: 38 U.S.C. 501)

[44 FR 59906, Oct. 17, 1979]

### § 1.959 Records and certificates.

The Chairperson of the Committee shall execute or certify any documents pertaining to its proceedings. He/she will be responsible for maintaining needed records of the transactions of the Committee and preparation of any administrative or other reports which may be required.

(Authority: 38 U.S.C. 501)

[44 FR 59906, Oct. 17, 1979]

### § 1.960 Legal and technical assistance.

Legal questions involving a determination under § 2.6(e)(4) of this chapter will be referred to the Regional Counsel for action in accordance with delegations of the General Counsel, unless there is an existence a General Counsel's opinion or an approved Regional Counsel's opinion dispositive of the controlling legal principle. As to matters not controlled by § 2.6(e)(4) of this chapter, the Chairperson of the regional office Committee or at his/her instance, a member, may seek and obtain advice from the Regional Counsel on legal matters within his/her jurisdiction and from other division chiefs in their areas of responsibility, on any matter properly before the Committee. Guidance may also be requested from the Central Office staff.

(Authority: 38 U.S.C. 501)

[44 FR 59906, Oct. 17, 1979]

### § 1.961 Releases.

On matters within its jurisdiction, the Committee may authorize the release of any right, title, claim, lien or demand, however acquired, against any person obligated on a loan guaranteed, insured, or made by the Department of Veterans Affairs under the provisions of 38 U.S.C. ch. 37, or on an acquired loan, or on a vendee account.

[39 FR 26400, July 19, 1974]

### § 1.962 Waiver of overpayments.

There shall be no collection of an overpayment, or any interest thereon, which results from participation in a benefit program administered under any law by VA when it is determined by a regional office Committee on Waivers and Compromises that collection would be against equity and good conscience. For the purpose of this regulation, the term *overpayment* refers only to those benefit payments made to a designated living payee or beneficiary in excess of the amount due or to which such payee or beneficiary is entitled. The death of an indebted payee, either prior to a request for waiver of the indebtedness or during Committee consideration of the waiver request, shall not preclude waiver consideration. There shall be no waiver consideration of an indebtedness that results from the receipt of a benefit payment by a non-payee who has no claim or entitlement to such payment.

(a) Waiver consideration is applicable in an indebtedness resulting from work study and education loan default, as well as indebtedness of a veteran-borrower, veteran transferee, or indebted spouse of either, arising out of participation in the loan program administered under 38 U.S.C. ch. 37. Also subject to waiver consideration is an indebtedness which is the result of VA hospitalization, domiciliary care, or treatment of a veteran, either furnished in error or on the basis of tentative eligibility.

(b) In any case where there is an indication of fraud or misrepresentation of a material fact on the part of the debtor or any other party having an interest in the claim, action on a request for