

§ 20.79

Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated in four pay periods or less; or

(2) Ministerial adjustments in pay rates or allowances which cannot be placed into effect immediately because of normal processing delays, if the amount to be recovered was accumulated in four pay periods or less.

§ 20.79 Examination of records relating to the claim; opportunity for full explanation of the claim.

Following receipt of the notice specified in § 20.78(b), the debtor may request to examine and copy agency records pertaining to the debt.

§ 20.80 Opportunity for repayment.

(a) The creditor Labor Department agency shall afford the debtor the opportunity to (1) repay the debt or (2) enter into a repayment plan which is agreeable to the agency head (or designee) and is in a written form signed by such debtor and the creditor agency. The head of the agency (or designee) may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

(b) Agencies have discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of offset. The determination should balance the Government's interest in collecting the debt against fairness to the debtor. If the debt is delinquent and the debtor has not disputed its existence or amount, an agency should effect an offset unless the debtor is able to establish that offset would result in undue financial hardship or would be against equity and good conscience, or the agency otherwise determines that offset would be contrary to sound judgment.

§ 20.81 Review of the obligation.

(a) The debtor shall have the opportunity to obtain a hearing by an administrative law judge of the agency's determination concerning the existence or amount of the debt, or the repayment schedule proposed by the agency, and except as provided in § 20.75(c), review by an administrative

29 CFR Subtitle A (7-1-06 Edition)

law judge is to be the exclusive administrative review remedy on the agency's determination under these regulations.

(b) The debtor seeking a hearing shall make the request in writing to the Chief Administrative Law Judge, pursuant to 29 CFR part 18, not more than 15 days from the date the notice of proposed salary offset was received by the debtor. The request for hearing shall be signed by the employee and state the basis for challenging the determination. If the debtor alleges that the agency's information relating to the debt is not accurate, timely, relevant or complete, such debtor shall fully identify and explain with reasonable specificity all the facts, evidence and witnesses, if any, which the employee believes supports his or her position.

(c) The hearing ordinarily shall be based on written submissions and documentation by the debtor. However, an opportunity for an oral hearing shall be provided an individual debtor when the administrative law judge determines that:

(1) An applicable statute authorizes or requires the agency to consider waiver of the indebtedness involved, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) An individual debtor requests reconsideration of the debt and the administrative law judge determines that the question of the indebtedness cannot be resolved by review of the documentary evidence, for example, when the validity of the debt turns on an issue of credibility or veracity; or

(3) In other situations in which the administrative law judge deems an oral hearing appropriate.

Unless otherwise required by law or these regulations, any oral hearing under this section shall be conducted under the procedures in 29 CFR part 18. Except as provided under § 20.79, the provisions for discovery shall not be applicable unless otherwise ordered by the administrative law judge. Procedural and evidentiary rules shall be relaxed by the administrative law judge to provide informality and to facilitate the hearing.