

§ 1650.105

not required. In such cases, the Commission's servicing Payroll Office, General Services Administration's National Payroll Center, will notify the employee in writing that because of the employee's election his or her pay will be reduced to cover the period between the effective date of the election and the first regular withholding, and that the employee may dispute the amount collected or request waiver of the debt by filing a request in writing with the Director of Financial and Resource Management Services.

(c) *Acknowledgment of receipt of advance notice.* Notice will be acknowledged in writing. A copy of the notice with the acknowledgment containing the debtor's original signature will be returned to the sender.

§ 1650.105 Request for reconsideration or request for consideration of waiver, compromise, or forgiveness.

A request for reconsideration or a request for consideration of waiver, compromise, or forgiveness must be submitted to the Director of FRMS, or his or her designee, within 15 calendar days of the issuance of the demand for payment. The Director of FRMS may extend the time limit for filing when the employee shows he or she was notified of the time limit and was not otherwise aware of it, or that he or she was prevented by circumstances beyond his or her control from making the request within the limit. Any employee requesting reconsideration or consideration of waiver, compromise, or forgiveness will be given a full opportunity to present all pertinent documentation and written information supporting his or her request.

§ 1650.106 Reconsideration or consideration of waiver, compromise or forgiveness decision.

Decisions will be based upon the employee's written submissions supported by evidence of record and other pertinent available information. After consideration of all pertinent documented information, a written decision will be issued as to whether the debt is valid, and the amount demanded is correct, or whether it will be waived, compromised, or forgiven. The decision will also inform the employee of his or her

29 CFR Ch. XIV (7-1-07 Edition)

right to an oral hearing; hearing procedures contained in § 1600.735-507(c) of this subpart shall be attached to the decision.

§ 1650.107 Oral hearing.

(a) *Right to an oral hearing.* After a decision is issued on an employee's request for reconsideration, or consideration of waiver, compromise, or forgiveness, the employee is entitled to an oral hearing upon request prior to salary or administrative offset, on any issue that raises a significant question as to the credibility or veracity of any individual(s) involved in his or her case. The decision whether such a genuine issue exists will rest solely with the Commission. Further, where a claim has been reduced to judgment, a hearing only on the payment schedule need be given. A hearing shall not be provided, however, where a payment schedule was established by written agreement between the employee and the Commission.

(b) *Request for hearing.* (1) A request for an oral hearing must be made within 30 calendar days from the date of the written decision on reconsideration or consideration of waiver, forgiveness, or compromise decision. Requests made after this time will be accepted where the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit, unless the employee is otherwise aware of it.

(2) A debtor must file a petition for a hearing in writing. The petition must identify and explain with reasonable brevity the facts, evidence, and witnesses that the debtor believes support his or her petition, state the relief requested, and include the signature and address of the petitioner or authorized representative.

(3) The timely filing of a petition for an oral hearing shall automatically stay the commencement of collection action.

(c) *Hearing procedures.* (1) The hearing shall be conducted by a hearing official who is not an employee of EEOC or otherwise under the control or supervision of the Chairman.

(2) A debtor may represent himself or herself or may be represented by another person, including an attorney during any portion of the hearing.

(3) Where possible, the hearing will be held in a Commission office close to the debtor's home or place of work. Hearings may be scheduled so that several cases can be heard at one location. In such cases, the hearings will be scheduled in a location centrally located to all requesting parties.

(4) A record or transcript of the hearing shall not be made.

(5) At the hearing, the employee and the Commission may introduce evidence and may call witnesses. The hearing shall not be conducted in accordance with formal rules of evidence with regard to the admissibility of evidence or the use of evidence once admitted. The hearing official may only permit the introduction of evidence that is relevant to the issues being considered. Witnesses shall testify under oath and may be cross-examined. The Commission has the burden of first presenting evidence on the relevant issues. The debtor then has the burden of presenting evidence regarding those issues.

(6) The hearing official shall issue a written opinion stating his or her decision with the rationale supporting the decision as soon as practicable after the hearing, but not later than 60 days after the timely filing of the petition requesting the hearing.

§ 1650.108 Method of collection.

A debt will be collected in a lump sum or by installment deductions at officially established pay intervals from an employee's current pay account, unless the employee and the Commission agree in writing to alternate arrangements for repayment.

§ 1650.109 Source of deductions.

Except as provided in §1600.735-513 and §1600.735-514 of this subpart, deductions will be made only from basic pay, special pay, incentive pay, retired pay, retainer pay or in the case of an employee not entitled to basic pay, other authorized pay.

§ 1650.110 Duration of deductions.

Debts will be collected in one lump sum when possible. If the employee is financially unable to pay in one lump sum or the amount of debt exceeds 15 percent of the employee's disposable pay for an officially established pay interval, collection by offset will be made in installments. Such installment deductions will be made over a period not greater than the anticipated period of active duty or employment of the employee, as the case may be, except as provided in §1600.735-513 and §1600.735-514 of this subpart.

§ 1650.111 Limitation on amount of deductions.

The size and frequency of installment deductions will bear a reasonable relationship to the size of the debt and the employee's ability to pay. The amount deducted for any period, however, will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. Installment payments of less than \$25 will be accepted only in the most unusual circumstances.

§ 1650.112 When deductions may begin.

(a) Deductions to liquidate an employee's debt should be scheduled to begin by the date and in the amount stated in the demand for payment.

(b) If the employee files a timely request for reconsideration or consideration of waiver, compromise or forgiveness, deductions will begin after a final decision is issued on the request.

(c) If the employee fails to submit a timely request for reconsideration or consideration of waiver, compromise, or forgiveness, or request for a hearing, deductions will commence in the next bi-weekly check vouchered for payment after the time limit to make such a request expires.

§ 1650.113 Liquidation of final check.

When the employee retires or resigns or if his or her employment or period of active duty ends before the debt is collected in full, the employee's debt will be automatically deducted from the final payments (e.g., final salary payment, lump-sum leave, etc.) due the employee to the extent necessary to