

## Presidio Trust

## § 1011.13

hearing official will inform the employee of the form of the hearing to be provided. For oral hearings, the notice will set forth the date, time and location of the hearing. For paper hearings, the notice will notify the employee of the date by which the employee should submit written arguments to the designated hearing official. The hearing official will give the employee reasonable time to submit documentation in support of the employee's position. The hearing official will schedule a new hearing date if requested by both parties. The hearing official will give both parties reasonable notice of the time and place of a rescheduled hearing.

(5) *Oral hearing.* The hearing official will conduct an oral hearing if the official determines that the matter cannot be resolved by review of documentary evidence alone (for example, when an issue of credibility or veracity is involved). The hearing official will determine the procedure for the oral hearing, determining, for example, the hearing length.

(6) *Paper hearing.* If the hearing official determines that an oral hearing is not necessary, the official will make the determination based upon a review of the available written record, including any documentation submitted by the employee in support of the employee's position.

(7) *Date of decision.* The hearing official will issue a written opinion setting forth the decision, based upon documentary evidence and information developed at the hearing, as soon as practicable after the hearing.

(8) *Final agency action.* The hearing official's decision will be final.

(f) *Salary offset process.* (1) *Determination of disposable pay.* The Presidio Trust payroll office will determine the amount of the employee's disposable pay (as defined in §1011.1 of this part) and will implement salary offset.

(2) *When salary offset begins.* Deductions will begin within three official pay periods.

(3) *Amount of salary offset.* The amount to be offset from each salary payment will be up to 15% of the employee's disposable pay, as follows:

(i) If the amount of the debt is equal to or less than 15% of the disposable

pay, such debt generally will be collected in one lump sum payment;

(ii) Installment deductions will be made over a period of no greater than the anticipated period of employment. An installment deduction will not exceed 15% of the disposable pay from which the deduction is made unless the employee has agreed in writing to the deduction of a greater amount.

(4) *Final salary payment.* After the employee's employment with the Presidio Trust ends, the Presidio Trust may make a lump sum deduction exceeding 15% of disposable pay from any final salary or other payments in order to satisfy a debt.

### **§ 1011.13 How will the Presidio Trust use administrative wage garnishment to collect a debt from a debtor's wages?**

(a) *Authority and process.* The Presidio Trust is authorized to collect debts from a debtor's wages by means of administrative wage garnishment in accordance with the requirements of the FCCS and other applicable law. This part adopts and incorporates all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described therein. The Presidio Trust may use administrative wage garnishment to collect a delinquent debt unless the debtor is making timely payments under an agreement to pay the debt in installments (see §1011.6 of this part). At least 30 days prior to initiating an administrative wage garnishment, the Presidio Trust will send notice to the debtor in accordance with the requirements of §1011.4 of this part, including the requirements of §1011.4(a)(10) of this part. For debts referred to the FMS under §1011.9 of this part, the Presidio Trust may authorize the FMS to send a notice informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing as described in §1011.4(a)(10) of this part. If a debtor makes a timely request for a hearing, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor. If a debtor's hearing request is not timely, the Presidio Trust may suspend

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collection by administrative wage garnishment. All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(b) *Not applicable to federal salary offset.* This section does not apply to federal salary offset, the process by which the Presidio Trust collects debts from the salaries of Federal employees (see § 1011.12 of this part).

### **§ 1011.14 How will the Presidio Trust report debts to credit bureaus?**

The Presidio Trust will report delinquent debts to credit bureaus in accordance with the provisions of 31 U.S.C. 3711(e) and the FCCS. At least 60 days prior to reporting a delinquent debt to a consumer reporting agency, the Presidio Trust will send notice to the debtor in accordance with the requirements of § 1011.4 of this part. The Presidio Trust may authorize the FMS to report to credit bureaus those delinquent debts that have been transferred to the FMS under § 1011.9 of this part.

### **§ 1011.15 How will the Presidio Trust refer debts to private collection contractors?**

The Presidio Trust will transfer delinquent debts to the FMS to obtain debt collection services provided by private collection contractors. See § 1011.9 of this part.

### **§ 1011.16 When will the Presidio Trust refer debts to the Department of Justice?**

(a) *Compromise or suspension or termination of collection activity.* The Presidio Trust will refer debts having a principal balance over \$100,000, or such higher amount as authorized by the Attorney General, to the Department of Justice for approval of any compromise of a debt or suspension or termination of collection activity. See the FCCS and § 1011.7 and 1011.8 of this part.

(b) *Litigation.* The Presidio Trust will promptly refer to the Department of Justice for litigation delinquent debts on which aggressive collection activity has been taken in accordance with this part that the Presidio Trust determines should not be compromised, and on which collection activity should not be suspended or terminated. The Pre-

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sidio Trust may authorize the FMS to refer to the Department of Justice for litigation those delinquent debts that have been transferred to the FMS under § 1011.9 of this part.

### **§ 1011.17 Will a debtor who owes a debt be ineligible for Presidio Trust licenses, permits, leases, privileges or services?**

Unless prohibited by law, the Presidio Trust may terminate, suspend or revoke licenses, permits, leases (subject to the terms of the leases), or other privileges or services for any inexcusable or willful failure of a debtor to pay a debt. The Presidio Trust may establish guidelines and procedures governing termination, suspension and revocation for delinquent debtors. If applicable, the Presidio Trust will advise the debtor in the notice required by § 1011.4 of this part of the Presidio Trust's ability to suspend or revoke licenses, permits, leases, or privileges or services.

### **§ 1011.18 How does a debtor request a special review based on a change in circumstances such as catastrophic illness, divorce, death or disability?**

(a) *Material change in circumstances.* A debtor who owes a debt may, at any time, request a special review by the Presidio Trust of the amount of any offset, administrative wage garnishment or voluntary payment, based on materially changed circumstances beyond the control of the debtor such as, without limitation, catastrophic illness, divorce, death or disability.

(b) *Inability to pay.* For purposes of this section, in determining whether an involuntary or voluntary payment would prevent the debtor from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation and medical care), the debtor must submit a detailed statement and supporting documents for the debtor, the debtor's, and dependents, indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Expenses for food, housing, clothing and transportation;
- (6) Medical expenses; and
- (7) Exceptional expenses, if any.