

§ 1.924

38 CFR Ch. I (7-1-08 Edition)

(ii) The hearing official's findings, analysis, and conclusions, and;

(iii) The terms of the repayment schedule, if applicable.

(d) In accordance with 31 CFR 285.11(g) and (h), VA or Treasury shall send a Treasury-approved withholding order and certification form by first class mail to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing. If a timely request for a hearing has been filed by the debtor, then VA or Treasury shall send a withholding order and certification form by first class mail to the debtor's employer within 30 days after a final decision is made to proceed with the garnishment. The employer shall complete and return the certification form as described in 31 CFR 285.11(h).

(e) After receipt of the garnishment order, the employer shall withhold the amount of garnishment as described in 31 CFR 285.11(i) from all disposable pay payable to the applicable debtor during each pay period.

(f) A debtor whose wages are subject to a wage withholding order under 31 CFR 285.11 may request a review, under the procedures set forth in 31 CFR 285.11(k), of the amount garnished. A request for review shall only be considered after garnishment has been initiated. The request must be based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship that limit the debtor's ability to provide food, housing, clothing, transportation, and medical care for himself/herself and his/her dependents.

(Authority: 31 U.S.C. 3720D; 38 U.S.C. 501; 31 CFR 285.11)

[69 FR 62196, Oct. 25, 2004, as amended at 72 FR 65462, Nov. 21, 2007]

§ 1.924 Suspension or revocation of eligibility for federal loans, loan insurance, loan guarantees, licenses, permits, or privileges.

(a) In accordance with 31 U.S.C. 3720B and the procedures set forth in 31 CFR 285.13 and §901.6, a person owing an outstanding non-tax debt that is in delinquent status shall not be eligible for Federal financial assistance unless exempted under paragraph (d) of this sec-

tion or waived under paragraph (e) of this section.

(b) Federal financial assistance or financial assistance means any Federal loan (other than a disaster loan), loan insurance, or loan guarantee.

(c) For the purposes of this section only, a debt is in a delinquent status if the debt has not been paid within 90 days of the payment due date or by the end of any grace period provided by statute, regulation, contract, or agreement. The payment due date is the date specified in the initial written demand for payment. Further guidance concerning the delinquent status of a debt may be found at 31 CFR 285.13(d).

(d) Upon the written request and recommendation of the Secretary of Veterans Affairs, the Secretary of the Treasury may grant exemptions from the provisions of this section. The standards for exemptions granted for classes of debts are set forth in 31 CFR 285.13(f).

(e)(1) VA's Chief Financial Officer or Deputy Chief Financial Officer may waive the provisions of paragraph (a) of this section only on a person-by-person basis.

(2) The Chief Financial Officer or Deputy Chief Financial Officer should balance the following factors when deciding whether to grant a waiver:

(i) Whether the denial of the financial assistance to the person would tend to interfere substantially with or defeat the purposes of the financial assistance program or otherwise would not be in the best interests of the Federal government; and

(ii) Whether the granting of the financial assistance to the person is contrary to the government's goal of reducing losses by requiring proper screening of potential borrowers.

(3) When balancing the factors described in paragraph (e)(2)(i) and (e)(2)(ii) of this section, the Chief Financial Officer or Deputy Chief Financial Officer should consider:

(i) The age, amount, and cause(s) of the delinquency and the likelihood that the person will resolve the delinquent debt; and

(ii) The amount of the total debt, delinquent or otherwise, owed by the person and the person's credit history with respect to repayment of debt.

(4) A centralized record shall be retained of the number and type of waivers granted under this section.

(f) In non-bankruptcy cases, in seeking the collection of statutory penalties, forfeitures, or other similar types of claims, VA may suspend or revoke any license, permit, or other privilege granted a debtor when the debtor inexcusably or willfully fails to pay such a debt. The debtor should be advised in VA's written demand for payment of VA's ability to suspend or revoke licenses, permits, or privileges. VA may suspend or disqualify any lender, contractor, or broker who is engaged in making, guaranteeing, insuring, acquiring, or participating in loans from doing further business with VA or engaging in programs sponsored by VA if such lender, contractor, or broker fails to pay its debts to the Government within a reasonable time, or if such lender, contractor, or broker has been suspended, debarred, or disqualified from participation in a program or activity by another Federal agency. The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 should be reported to Treasury.

(g) In bankruptcy cases, before advising the debtor of the intention to suspend or revoke licenses, permits, or privileges, VA should seek legal advice from VA's General Counsel or Regional Counsel concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 362 and 525, which may restrict such action.

(Authority: 31 U.S.C. 3720B; 38 U.S.C. 501)

[69 FR 62197, Oct. 25, 2004]

§ 1.929 Reduction of debt through performance of work-study services.

(a) *Scope.* (1) Subject to the provisions of this section VA may allow an individual to reduce an indebtedness to the United States through offset of benefits to which the individual becomes entitled by performance of work-study services under 38 U.S.C. 3485 and 3537 when the debt arose by virtue of the individual's participation in a benefits program provided under any of the following:

- (i) 38 U.S.C. chapter 30;
- (ii) 38 U.S.C. chapter 31;

(iii) 38 U.S.C. chapter 32;

(iv) 38 U.S.C. chapter 34;

(v) 38 U.S.C. chapter 35;

(vi) 38 U.S.C. chapter 36 (other than an education loan provided under subpart F, part 21 of this title); or

(vii) 10 U.S.C. chapter 1606 (other than an indebtedness arising from a refund penalty imposed under 10 U.S.C. 16135).

(2) This section shall not apply in any case in which the individual has a pending request for waiver of the debt under §§ 1.950 through 1.970.

(Authority: 38 U.S.C. 3485(e)(1); Pub. L. 102-16)

(b) *Selection criteria.* (1) If there are more candidates for a work-study allowance than there are work-study positions available in the area in which the services are to be performed, VA will give priority to the candidates who are pursuing a program of education or rehabilitation.

(2) Only after all candidates in the area described in paragraph (b)(1) of this section either have been given work-study contracts or have withdrawn their request for contracts will VA offer contracts to those who are not pursuing a program of education or rehabilitation and who wish to reduce their indebtedness through performance of work-study services.

(3) VA shall not offer a contract to an individual who is receiving compensation from another source for the work-study services the individual wishes to perform.

(4) VA shall not offer a contract to an individual if VA determines that the debt can be collected through other means such as collection in a lump sum, collection in installments as provided in § 1.917 or compromise as provided in § 1.918.

(Authority: 38 U.S.C. 3485(e); Pub. L. 102-16)

(c) *Utilization.* The work-study services to be performed under a debt-liquidation contract will be limited as follows:

(1) If the individual is concurrently receiving educational assistance in a program administered by VA, work-study services are limited to those allowed in the educational program