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(1) The individual's name, address, taxpayer identification number, and any other information necessary to establish the identity of the individual;

(2) The amount, status, and history of the debt; and

(3) The fact that the debt arose in connection with the administration of the Civil Service Retirement System.

(c) *Subsequent reports.* OPM will update its report to the consumer reporting agency whenever it has knowledge of events that substantially change the status or the amount of the liability.

§831.1308 Referral to a collection agency.

(a) OPM may refer certain debts to commercial collection agencies under the following conditions:

(1) All processing required by §831.1304 has been completed before the debt is released.

(2) A contract for collection services has been negotiated.

(3) OPM retains the responsibility for resolving disputes, compromising claims, referring the debt for litigation, or suspending or terminating collection action.

§831.1309 Referral for litigation.

From time to time and in a manner consistent with the General Accounting Office's and the Justice Department's instructions, OPM will refer certain overpayments to the Justice Department for litigation. Referral for litigation will suspend processing under this subpart.

Subpart N—Standards for Waiver of Overpayments

SOURCE: 45 FR 23635, Apr. 8, 1980, unless otherwise noted.

§831.1401 Conditions for waiver.

Recovery of an overpayment from the Civil Service Retirement and Disability Fund may be waived pursuant to section 8346(b), of title 5, United States Code, when the annuitant (a) is without fault and (b) recovery would be against equity and good conscience. Where it has been determined that the recipient of an overpayment is ineligible for waiver, the individual is nevertheless entitled to an adjustment in the recovery schedule if he/she shows that it would cause him/her financial hardship to make payment at the rate scheduled.

§831.1402 Fault.

A recipient of an overpayment is without fault if he/she performed no act of commission or omission which resulted in the overpayment. The fact that the Office of Personnel Management may have been at fault in initiating an overpayment will not necessarily relieve the individual from liability.

(a) *Considerations.* Pertinent considerations in finding fault are—

(1) Whether payment resulted from the individual's incorrect but not necessarily fraudulent statement, which he/she should have known to be incorrect;

(2) Whether payment resulted from the individual's failure to disclose material facts in his/her possession which he/she should have known to be material; or

(3) Whether he/she accepted a payment which he/she knew or should have known to be erroneous.

(b) *Mitigation factors.* The individual's age, physical and mental condition or the nature of the information supplied to him/her by OPM or a Federal agency may mitigate against finding fault if one or more contributed to his/her submission of an incorrect statement, a statement which did not disclose material facts in his/her possession, or his/her acceptance of an erroneous overpayment.

§831.1403 Equity and good conscience.

(a) *Defined.* Recovery is against equity and good conscience when—

(1) It would cause financial hardship to the person from whom it is sought;

(2) The recipient of the overpayment can show (regardless of his or her financial circumstances) that due to the notice that such payment would be made or because of the incorrect payment either he/she has relinquished a valuable right or changed positions for the worse; or

(3) Recovery could be unconscionable under the circumstances.

§ 831.1404 Financial hardship.

Financial hardship may be deemed to exist in—but not limited to—those situations where the annuitant from whom collection is sought needs substantially all of his/her current income and liquid assets to meet current ordinary and necessary living expenses and liabilities.

(a) *Considerations.* Some pertinent considerations in determining whether recovery would cause financial hardship are as follows:

(1) The individual's financial ability to pay *at the time collection is scheduled to be made.*

(2) Income to other family member(s), if such member's ordinary and necessary living expenses are included in expenses reported by the annuitant.

(b) *Exemptions.* Assets exempt from execution under State law should not be considered in determining an individual's ability to repay the indebtedness, rather primary emphasis shall be placed upon the annuitant's liquid assets and current income in making such determinations.

§ 831.1405 Ordinary and necessary living expenses.

An individual's ordinary and necessary living expenses include rent, mortgage payments, utilities, maintenance, food, clothing, insurance (life, health and accident), taxes, installment payments, medical expenses, support expenses when the annuitant is legally responsible, and other miscellaneous expenses which the individual can establish as being ordinary and necessary.

§ 831.1406 Waiver precluded.

(a) *When not granted.* Waiver of an overpayment cannot be granted when—

(1) The overpayment was obtained by fraud; or

(2) The overpayment was made to an estate.

§ 831.1407 Burdens of proof.

(a) *Burden of OPM.* The Associate Director for Compensation must establish by the preponderance of the evidence that an overpayment occurred.

(b) *Burden of annuitant.* The recipient of an overpayment must establish by substantial evidence that he/she is eligible for waiver or an adjustment.

Subpart O—Allotments From Civil Service Annuities

SOURCE: 42 FR 52373, Sept. 30, 1977; 42 FR 61240, Dec. 2, 1977, unless otherwise noted.

§ 831.1501 Definitions.

(a) *Allotment* means a specified deduction from the annuity payments due an annuitant voluntarily authorized by the annuitant to be paid to an allottee.

(b) *Allottee* means the institution or organization to which the allotment is paid.

(c) *Allotter* means the annuitant from whose annuity payments an allotment is deducted.

(d) *Annuity Payments* means the net monthly annuity payment due an annuitant after all authorized deductions (such as those for health benefits, Federal income tax, overpayment of annuity, payment of a government claim, etc. have been made.

§ 831.1511 Authorized allottees.

(a) An annuitant may make an allotment to the national office or headquarters of any of the following organizations:

(1) A labor organization recognized under Executive Order 11491, as amended;

(2) An employee organization recognized under 5 U.S.C. 8901(8);

(3) Other lawful organizations which:

(i) Are national in scope,

(ii) Are nonprofit and noncommercial, existing primarily for the purpose of representing employee or annuitant interests in their dealings with employing agencies or OPM,

(iii) Consist primarily of Federal employees and/or annuitants, and

(iv) Existed as of December 23, 1975.

(b) OPM, in its sole discretion, may approve the individual organizations which may receive allotments only after the organization has collected, in accordance with procedures prescribed by OPM, a minimum of two thousand (2,000) allotment authorizations from civil service annuitants.

(c) OPM shall permit an annuitant to make an allotment to an organization only when: