

§ 29.503

§ 29.503 Prohibition against collection of debts.

(a) Debts may be collected from Federal Benefit Payments only to the extent expressly authorized by Federal debt collection statutes and any other applicable Federal law.

(b) When collection of a debt from Federal Benefit Payments is authorized under paragraph (a) of this section, the collection will be made in accordance with this subpart and other applicable federal law.

§ 29.504 Status of debts.

A payment of a Federal Benefit Payment to a debtor because of an error on the part of the Department or Benefits Administrator, or the failure of the creditor agency to properly and/or timely submit a debt claim, does not erase the debt or affect the validity of the claim by the creditor agency.

§ 29.505 Compromise of debts; termination and suspension of collection actions.

The procedures for compromise of a claim for an overpayment or the termination or suspension of a collection action seeking to recover an overpayment, other than waiver of an overpayment under §§ 29.521 through 29.526, are controlled exclusively by the FCCS and 31 CFR part 5.

§ 29.506 Recovery of other debts owed to the United States.

(a) *Procedures for Creditor Agencies.* Agencies seeking to recover a debt by offset of Federal Benefit Payments payable to the debtor must comply with the offset procedures set forth in 31 U.S.C. 3716 and the FCCS. A creditor agency may seek to collect a debt through offset of Federal Benefit Payments pursuant to the Department's procedures for administrative offset set forth in 31 CFR part 5.

(b) *Offset by the Benefits Administrator.* As required by 31 U.S.C. 3716(c), the Benefits Administrator must compare payment records of the Retirement Funds with records of debts submitted to the Financial Management Service for collection by administrative offset, and must offset payments to satisfy, in whole or in part, debts owed by any annuitant.

31 CFR Subtitle A (7-1-10 Edition)

COLLECTION OF OVERPAYMENTS

§ 29.511 Demand letters.

Except as provided in § 29.516(e), before starting collection action to recover an overpayment, the Benefits Administrator must send a demand letter that informs the debtor in writing—

(a) That an overpayment has occurred, the amount of the overpayment, and the facts giving rise to the overpayment;

(b) The date by which payment of the debt should be made to avoid additional charges (*i.e.*, interest, penalties and administrative costs) permitted by the FCCS and enforced collection;

(c) The requirement that any overpayment debt delinquent for more than 180 days be transferred to the Department of the Treasury's Financial Management Service for collection;

(d) The name, address, and phone number of the appropriate person or office the debtor may contact about the debt;

(e) The remedies which may be used to enforce payment of the debt, including assessment of interest, administrative costs and penalties; administrative wage garnishment; the use of collection agencies; Federal salary offset; tax refund offset; administrative offset; and litigation.

(f) Whether offset is available and, if so, the types of payment(s) to be offset or eligible for offset, the repayment schedule (if any), the right to request an adjustment in the repayment schedule, and the right to request a voluntary repayment agreement in lieu of offset;

(g) An explanation of the Department's policy on interest, penalties, and administrative costs as set forth in 31 CFR part 5, the FCCS, and 31 U.S.C. 3717, including a statement that such assessments must be made unless excused in accordance with the FCCS;

(h) The debtor's opportunity to request repayment in installments if the debtor can show an inability to repay the debt in one lump sum;

(i) The debtor's opportunity to inspect and/or receive a copy of the records relating to the overpayment;

(j) The method and time period (60 calendar days) for requesting reconsideration, waiver, and/or compromise of the overpayment;

(k) That all requests for waiver or compromise must be accompanied by a disclosure of the debtor's financial condition and ability to pay the debt;

(l) The standards used by the Department in deciding requests for waiver (set forth in §§ 29.521 through 29.526) and compromise (set forth in 31 CFR 902.2); and

(m) The fact that a timely filing of a request for reconsideration, waiver and/or compromise, or a subsequent timely appeal of a reconsideration decision, will stop collection proceedings, unless—

(1) Failure to take the offset would substantially prejudice the Federal Government's ability to collect the debt; and

(2) The time before the payment is to be made does not reasonably permit the completion of these procedures.

§ 29.512 Reconsideration by the Benefits Administrator.

(a) *Right to reconsideration of overpayment determinations.* Individuals who receive a demand letter and who wish to contest the existence or amount of the overpayment may ask the Benefits Administrator to reconsider the determination.

(b) *Requests for waiver or compromise.* Individuals who wish to seek waiver or compromise of the overpayment may file such requests with the Department under § 29.514. An individual may file a request for reconsideration in addition to a request for waiver or compromise.

(c) *Form and timing of requests for reconsideration.* (1) A request for reconsideration must be in writing and must state the basis for the request. Individuals requesting reconsideration will be given a full opportunity to present any pertinent information and documentation supporting their position and should, to the extent possible, include such information and documentation in their request.

(2) A request for reconsideration must be received by the Benefits Administrator within 60 calendar days of the date of the demand letter. The Department may extend the time limit

for filing when the individual shows that he or she was not 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 time limit, or for other good and sufficient reason.

(3) When a request for reconsideration covered by this subpart is properly filed before the death of the debtor, it will be processed to completion unless the relief sought is nullified by the debtor's death.

(d) *Reconsideration decisions.* (1) The Benefits Administrator's decision on a request for reconsideration will be based upon the individual's written submissions, evidence of record, and other pertinent available information.

(2) A reconsideration decision by the Benefits Administrator must—

(i) Be in writing;

(ii) Provide notice of the extent of the individual's liability for the overpayment, if any;

(iii) If the individual is determined to be liable for all or a portion of the overpayment, reaffirm or modify the conditions for the collection of the overpayment previously proposed in the demand letter;

(iv) Provide notice of the right to appeal the Benefits Administrator's decision to the Department, the address to which such an appeal must be submitted, and the time limits applicable to such an appeal; and

(v) State that a timely appeal of the Benefits Administrator's decision to the Department will suspend action to collect the debt.

(e) *Appeal of reconsideration decisions.* The Department will review an appeal of a reconsideration decision under § 29.513.

§ 29.513 Appeals to the Department.

(a) *Form of appeal.* An appeal of a reconsideration decision under § 29.512 must be in writing and must state the basis for the appeal.

(b) *Time limits on appeals.* (1) An appeal must be received by the Department within 60 calendar days from the date of the reconsideration decision.