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the earliest practical date, but no later than 60 days after the filing of a petition for hearing, unless a delay is granted at the request of the employee.

§ 92.15 Request for hearing after time expires.

The Department may accept late requests for a hearing if the employee can show that delay in requesting a hearing beyond the period provided in the notice described in § 92.11 of this part was caused by circumstances beyond his or her control or because of failure to receive notice of the time limit (unless he or she was otherwise aware of it) or because of new information.

§ 92.17 Form of hearings and written decisions.

(a) Hearings shall consist of informal conferences before an administrative law judge or other hearing official (see § 92.5(j)) in which the employee and the DOT creditor operating element are given full opportunity to present evidence, witnesses, and argument. The DOT operating element will maintain a summary record of a hearing provided under these procedures.

(b) Written decisions provided after a request for hearing shall, at a minimum, summarize the evidence alleged to substantiate the nature and origin of the alleged debt; the administrative law judge's or other hearing official's analysis, findings, and conclusions; the amount and validity of the alleged debt; and, where applicable, the repayment schedule.

(c) A copy of the administrative law judge's or other hearing official's final decision shall be provided to the employee as well as the chief of the office authorized to collect debts by deduction from salary.

(d) The decision of the administrative law judge or other hearing official shall be final and binding on the parties.

§ 92.19 Obtaining the services of a hearing official.

(a) Where a DOT operating element is the creditor agency, the chief of the appropriate accounting or finance office shall schedule a hearing before an administrative law judge or other hearing official.

(b) If another (non-DOT) agency is the creditor agency, then it is the responsibility of that agency to arrange for a hearing if one is requested.

(c) Agents for the paying agency are designated in appendix A to 5 CFR part 581. (This appendix lists the agents designated to accept legal process for the executive branch, the U.S. Postal Service, the Postal Rate Commission, the District of Columbia, American Samoa, Guam, the Virgin Islands, and the Smithsonian Institution.)

§ 92.21 Deduction from pay.

(a) After other, less severe collection actions have failed, the DOT operating element (see § 92.5(g)) may implement steps to obtain collection by salary offset. The method and the amount of the salary offset shall be the method and amount stated in the creditor agency's demand letter (see § 92.11) or notice (see § 92.7), or, if applicable, in the decision of an administrative law judge or other hearing official after an employee-requested hearing on the matter. If a DOT operating element is the creditor, the procedures stated in § 92.11 shall be followed.

(b) Before a collection by salary offset may be made, the chief of the accounting or finance office of the paying DOT operating element shall be furnished with certified documentation by the creditor agency indicating that the creditor agency has sent the employee a demand letter pursuant to § 92.11 of this part stating as a minimum:

(1) The nature and amount of the indebtedness and the intention of the agency to initiate, at the expiration of thirty days, a proceeding to collect the debt by salary offset; and an explanation of the rights of the employee under this subsection;

(2) That the employee has the opportunity to inspect and copy Government records relating to the debt;

(3) That the employee has an opportunity to enter into a written agreement with the agency to establish a schedule for the repayment of the debt;

(4) That the employee has an opportunity for a hearing on the determination of the agency concerning the existence or the amount of the debt, and

in the case of an individual whose repayment schedule is established other than by a written agreement as described in paragraph (b)(3) of this section concerning the terms of the repayment schedule; and

(5) That the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by OPM (see 5 CFR 550.1108(a)).

(c) Where a hearing has been held, a copy of the decision of the administrative law judge or other hearing official must be furnished to the chief of the accounting or finance office of the paying DOT operating element before collection of the indebtedness by salary offset may be initiated. The method and amount of the offset will be as stated in the decision.

§ 92.23 Collection.

(a) A debt shall 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 DOT operating element agree to alternative arrangements for payment (see § 92.11(b)(9) describing such voluntary repayment arrangements). The alternative arrangement shall be in writing, signed by both the employee and the chief of the appropriate accounting or finance office, and shall be documented in the DOT operating element's files.

(b) Under 31 U.S.C. 3716 and 4 CFR 102.3(b)(3), agencies may not initiate offset to collect a debt more than 10 years after the Government's right to collect the debt accrued, unless facts material to the Government's rights to collect the debt were not known by the DOT operating element's official or officials charged with the responsibility to discover and collect the debt.

§ 92.25 Source of deductions.

Except as provided in § 92.31 and § 92.33 of this part (with respect to separated employees), the paying DOT operating element will make deductions only from disposable pay (see § 92.5(f)).

§ 92.27 Duration of deductions.

Debts shall be collected in one lump sum where possible. However, if the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay payable in one pay period, collection will be made in installments. Such installment deductions will be made over a period not greater than the anticipated period of employment or active duty, as the case may be, except as provided in §§ 92.29, 92.31, and 92.33 of this part.

§ 92.29 Limitation on amount of deductions.

The size and frequency of installment deductions shall bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period may 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.

§ 92.31 Liquidation from final payment.

If the employee retires, resigns his or her employment, is terminated, or the employment or period of active duty ends before collection of the debt is completed, there shall be an offset from subsequent payments of any nature (e.g., final salary, lump sum leave, etc.) due the employee from the DOT operating element on the date of separation to the extent necessary to liquidate the debt.

§ 92.33 Recovery from other payments due a separated employee.

If the debt cannot be liquidated by offset from any final payment due the employee as of the date of separation, the DOT operating element shall liquidate the debt by administrative offset pursuant to 31 U.S.C. 3716 from later payments of any kind due the former employee from the United States, where appropriate (see § 92.41(b)(2)(ii)).

§ 92.35 Interest, penalties and administrative costs.

(a) Where a DOT creditor operating element (see § 92.5(g)) is the creditor, it shall charge interest on an outstanding debt at the rate published by the Secretary of the Treasury in accordance with 31 U.S.C. 3717. The rate of interest