



[Docket No. VA-2025-VACO-0002]

**Instruction of the Secretary and General Policy Statement on Processing Claims
Under Section 252 of the Joseph Maxwell Cleland and Robert Joseph Dole
Memorial Veterans Benefits and Health Care Improvement Act of 2022**

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) announces that on December 22, 2023, the Secretary of Veterans Affairs issued a Temporary Timeliness Instruction to provide temporary timeliness standards for the processing of benefits claims-related information in implementing section 252 of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022 (Cleland-Dole Act), which prohibits the incurrence of VA beneficiary debt caused by overpayment attributable to VA's failure to timely process information provided by or on behalf of a VA beneficiary.

FOR FURTHER INFORMATION CONTACT: Michael May, Regulations Analyst, Compensation Service, Veterans Benefits Administration, 202-461-9700.

SUPPLEMENTARY INFORMATION:

I. General

Notice is given that on December 22, 2023, the Secretary of Veterans Affairs issued a Temporary Timeliness Instruction relating to the implementation of 38 U.S.C. 5302B, as established by the Cleland-Dole Act. Relevant excerpts from the Temporary Timeliness Instruction, with slight modifications for reading clarity, are provided below. A copy of the Temporary Timeliness Instruction, in its entirety, can be found as an attachment to this notice at www.regulations.gov under docket VA-2025-VACO-0002.

On December 29, 2022, Pub. L. 117-328, the Consolidated Appropriations Act, 2023, was signed into law. This law contains Division U, or the Cleland-Dole Act. Section 252 of Division U, title II, subtitle E, or the VA Beneficiary Debt Collection Improvement Act of 2022, added 38 U.S.C. 5302B, which prohibits the incurrence of VA beneficiary debt resulting from overpayment due to a delay by VA in processing beyond the applicable timeliness standard established by the Secretary.

VA was previously required to collect debts from beneficiaries regardless of VA information processing delays. In response to the fact that processing delays negatively impact VA beneficiaries, Congress enacted 38 U.S.C. 5302B, which establishes a prohibition against the creation of a debt arising from benefit overpayment(s) attributable to VA processing delays. This prohibition ensures that beneficiaries are not held responsible for benefit overpayment debts that accrue due to VA's failure to timely process information provided by or on behalf of a beneficiary. It also incentivizes both the timely processing of benefit claims information to avoid benefit overpayments and the timely establishment and collection of benefit overpayment debts to avoid unnecessarily large debt balances. Section 252 of the Cleland-Dole Act notes that the Secretary shall prescribe regulations to establish standards under section 5302B. VA is currently drafting those implementing regulations. Due to the time required to develop and promulgate the regulations, on December 22, 2023, the Secretary issued a Temporary Timeliness Instruction establishing temporary timeliness standards for processing benefit claims-related information provided by or on behalf of a beneficiary. This instruction is temporary in nature and will cease to be effective when VA publishes permanent timeliness standard regulations under 38 U.S.C. 5302B(a)(1)(B). VA is also implementing this instruction in a Veterans Benefits Administration (VBA) letter to claims processors so that VA may begin processing claims under section 5302B pending VA issuance of implementing regulations. The VBA letter provided to claims processors is

found as an attachment to this notice at www.regulations.gov under docket VA-2025-VACO-0002.

II. Relevant Excerpts from the Temporary Timeliness Instruction of the Secretary, with Slight Modifications for Reading Clarity

Background

Prior to the enactment of 38 U.S.C. 5302B, VA was required to collect beneficiary debt attributable to VA's failure to timely process information provided by or on behalf of a beneficiary, irrespective of VA information processing delays. Recognizing that debt collection activities (as defined herein), which commence after prolonged, unexplained, or unjustified processing delays negatively impact VA beneficiaries and are inconsistent with the fundamental principles of fairness, VA employees must ensure that beneficiary overpayment debts are identified, created, and collected in a timely manner. VBA is issuing instructions to provide temporary timeliness standards for overpayment debts attributable to VA's failure to timely process information provided by or on behalf of a beneficiary, as required by 38 U.S.C. 5302B, pending VA issuance of implementing regulations.

In some cases, VA beneficiaries incur overpayment debt that is attributable to VA's failure to timely process information provided by or on behalf of a beneficiary. Often, beneficiaries are unable to repay the debt without suffering undue hardship. While VA makes every effort to work with beneficiaries to minimize the negative impact of debt collection activities, prolonged delays by VA in commencing debt collection activities exacerbate the negative impact to beneficiaries. In part to address these inequities, on December 29, 2022, Congress enacted the Cleland-Dole Act, which includes section 252, which amends chapter 53 of title 38, United States Code, by inserting new 38 U.S.C. 5302B. Section 5302B provides:

Section 5302B. Prohibition of debt arising from overpayment due to delay in

processing

(a) Limitation.—(1) Except as provided in paragraph (2), no individual may incur a debt to the United States that—

(A) arises from the participation of the individual in a program or benefit administered by the Under Secretary for Benefits; and

(B) is attributable to the failure of an employee or official of the Department to process information provided by or on behalf of that individual within applicable timeliness standards established by the Secretary.

(2) Nothing in this section shall be construed to affect the penal and forfeiture provisions for fiduciaries set forth in chapter 61 of this title.

(b) Notice.—(1) If the Secretary determines that the Secretary has made an overpayment to an individual, the Secretary shall provide notice to the individual of the overpayment.

(2) Notice under paragraph (1) shall include a detailed explanation of the right of the individual—

(A) to dispute the overpayment, including a detailed explanation of the process by which to dispute the overpayment; or

(B) to request a waiver of indebtedness.

Instructions

Debt collection activities that are attributable to a failure of an employee or official of the Department to process information provided by or on behalf of a beneficiary within the timeliness standards set forth herein shall be limited.

Definitions for Purposes of these Instructions

a. Date of Decision Notification Letter: The date listed on the Decision Notification Letter provided to the beneficiary.

b. Debt Collection Activities: The term “debt collection activities” is intended to be

construed broadly to include all activities establishing and processing debts, communicating debt notifications to beneficiaries, and recovering payments to satisfy the debts.

c. Date of Claim: The date the claim or information is received by VBA for claims establishment or benefit verification purposes, per VBA Manual M21-4, B.1.c.

d. On Behalf of a Beneficiary: The term, “on behalf of a beneficiary,” is defined as information provided by the beneficiary's designated representative of record, or information that VA receives through established matching agreements.

Timeliness Standards for Collecting Beneficiary Overpayments

When the underlying overpayment debt was attributable to a failure of an employee or official of the Department to process in a timely manner information provided by or on behalf of a beneficiary:

- Absent delays directly attributable to a beneficiary's actions, VA must issue a Decision Notification Letter based on information provided by or on behalf of a beneficiary within 1 year from the date of claim. Delays attributable to a beneficiary's actions will extend the timeliness period to issue a Decision Notification Letter by the length of the delay.

- When VA fails to issue a timely Decision Notification Letter, as noted above, VA will not create additional debt for overpayments made more than 1 year from the date of claim.

- Each issue that generates a potential overpayment will be considered separately for purposes of applying these timeliness standards.

- VA will limit debt collection activities to overpayments incurred:

1. During a 1-year period following the date of claim where a Decision Notification Letter is issued within 1 year from the date of claim;

2. That are directly attributable to beneficiary actions that extend the timeliness

period to issue a Decision Notification Letter; and

3. As a result of the beneficiary's delay in reporting to VA current and accurate information affecting their benefits.

Note: These timeliness standards do not apply in situations where there is evidence of fraud, misrepresentation, or bad faith on the part of the beneficiary or someone acting on behalf of the beneficiary. These standards also do not relieve individuals, or their designated representatives, of their responsibility to provide current, accurate, and updated information affecting their benefits. The standards may be used in consideration of challenges to the validity of the debt or in processing requests for waivers, compromises, repayment plans, or other forms of equitable relief related to information provided by or on behalf of beneficiaries.

Delegated Discretionary Authority to the Under Secretary for Benefits

VA employees must ensure that VA's debt collection activities are carried out in a timely, responsible, and fair manner. These instructions, establishing temporary timeliness standards and definitions, are intended to reduce the negative impact of untimely debt collection activities. Therefore, recognizing the volume, scope, and complexity of processing beneficiary benefits, the Secretary has delegated discretionary authority to adjust the timeliness standards set forth to the Under Secretary for Benefits to ensure that VA's timeliness standards do not result in unfair or unjust outcomes.

In exercising this discretion, the Under Secretary for Benefits shall consider whether the:

a. Timeliness standards will result in an undue hardship on the beneficiary such that collection of the overpayment would deprive the beneficiary of income required to provide for basic necessities, including shelter, food, medicine, dependent care, or other essential living expenses;

b. Timeliness standards will result in unjust enrichment of the beneficiary; and

c. Cost of collection outweighs the potential for recovery.

Note: While the Under Secretary for Benefits must consider all three of the foregoing factors, it is not necessary for every factor to be satisfied or afforded equal consideration.

Application

In connection with a current matter involving delayed processing of pending or nonfinal pension debt that resulted from a data quality issue to identify Social Security income, VBA considered the three factors above, and in so doing, found that the discretionary criteria for non-collection of the debt are met. VBA recognizes that beneficiaries receiving VA pension must meet specific eligibility criteria, including but not limited to: income, net worth, age, disability, and war-time service. This population of beneficiaries is particularly vulnerable to suffering an undue hardship in repaying pension overpayments. As such, VA has a heightened responsibility to these beneficiaries. Accordingly, VBA recommends that VA program offices be directed to take all necessary steps to not collect, and to refund payments made on, pension debts that were incurred as a result of VA delays in processing overpayments due to the data quality issue with the Social Security matching program. Given the facts and circumstances of the present issue, VBA finds that debt collection activities would result in an undue hardship on the impacted beneficiaries and be inconsistent with VA's mission.

Effective Date

These instructions apply to all debt collection activities pending and nonfinal on June 27, 2023, as well as any original, supplemental, or other debt collection activities on or after June 27, 2023. This effective date is established based on the Congressional mandate for VA to establish timeliness standards within 180 days of December 29, 2022, the enactment date of the Cleland-Dole Act.

Miscellaneous

- These Instructions neither replace nor will be interpreted inconsistently with existing laws, rules, or regulations.
- VA will ensure compliance with all reporting, oversight, and compliance requirements. VA must act promptly and appropriately to correct errors and resume debt collection activities in accordance with applicable law, rule, regulation, and policy.
- These instructions are temporary in nature, are not intended to bind VA regarding the terms of any subsequent regulations and will cease to be effective when VA publishes timeliness standard regulations, as directed by the Cleland-Dole Act.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on June 30, 2025, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Taylor N. Mattson,

Alternate Federal Register Liaison Officer, Department of Veterans Affairs.

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