



38 CFR Part 1

[Docket No. VA-2024-OTHER-0024]

RIN 2900-AS18

Extending Deadline for Debtor to Request a Waiver

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is finalizing, with technical changes, a proposed rule to amend the time period that a debtor has to request a waiver from 180 days to one year, as mandated by the Cleland Dole Act. Generally, VA is authorized to not recover debts related to benefits payments or overpayments where recovery would be against good conscience and an application for relief is made within the required time period. Allowing an additional six months to request a waiver reduces pressure on veterans by easing the compliance burden.

DATES: This rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jeremiah McIntosh, Systems and Procedures Analyst, Office of Finance, Office of Management, (207) 402-9017.

SUPPLEMENTARY INFORMATION: On November 8, 2024, VA published a proposed rule in the Federal Register, 89 FR 88686, to amend the time period that a debtor has to request a waiver from 180 days to one year consistent with section 254 of the Cleland Dole Act, Pub. L. 117-328, Division U, which went into effect on December 29, 2024. VA provided a 60-day comment period, which ended on January 7, 2025. VA received one supportive comment, which also contained a request that was outside the scope of the rulemaking. VA is not making any changes to the final regulation based on this

comment. For the reasons stated above, VA will adopt the proposed rule as final, with technical changes.

Technical Changes Not Related to Comments

Currently, 38 CFR 1.963(b)(1) establishes a two-year timeframe for individuals to submit a request for waiver from indebtedness for VA notices of indebtedness issued by VA on or before March 31, 1983, without any exception to extend this timeframe. This two-year timeframe was consistent with 38 U.S.C. 5302(a), prior to such statute being amended to substitute “180 days” for the former “two years,” and to newly include an exception to extend the 180-day timeframe if an individual could show their receipt of VA’s notice was delayed. See Pub. L. 97-306, sec. 407(b), enacted Oct. 14, 1982, effective March 31, 1983.

Subject to this statutory amendment, VA promulgated § 1.963(b)(2) on June 15, 1983, establishing a new timeframe of 180 days from the date of VA notice for those notices issued by VA after March 31, 1983, and including a new exception to extend that timeframe. 48 FR 27400. At the time that VA first promulgated § 1.963(b)(2), this new 180-day timeframe overlapped the former two-year timeframe in § 1.963(b)(1), and so VA retained paragraph (b)(1) to ensure that the former, longer timeframe had adequate time to run. However, paragraph (b)(1) is now obsolete as the former two-year timeframe for notices of indebtedness issued by VA on or prior to March 31, 1983, has long since passed, and there is no statutory exception to extend that two-year timeframe for such notices. VA therefore removes paragraph (b)(1) of § 1.963 in this final rule. In so doing, VA will now only regulate applicable timeframes for individuals to submit requests for waivers of indebtedness in a single paragraph (b) under § 1.963.

VA proposed to revise § 1.963(b)(1) to replace the former 180-day timeframe with one year for all notices issued by VA after April 1, 1983, so that application of waiver can be “made within one year following the date of a notice of indebtedness

issued on or after April 1, 1983, by the Department of Veterans Affairs to the debtor.” 89 FR 88687. This proposed revision was based on amendments to 38 U.S.C. 5302(a)(1) as made by section 254 of the Joseph Maxwell Cleland and Robert Joseph Dole Memorial Veterans Benefits and Health Care Improvement Act of 2022 (Div. U of Public Law 117-328, enacted December 29, 2022, hereinafter referred to as “the Act”). However, section 254 of the Act amended 38 U.S.C. 5302(a)(1) to establish a one-year timeframe to apply for waiver only for notices of indebtedness issued by VA on and after December 29, 2024, not to any notice issued by VA on or after April 1, 1983, as stated in the proposed rule. Any notice issued by VA from April 1, 1983, through December 28, 2024, would technically still be subject to the former 180-day timeframe in section 5302(a)(1), prior to the most recent amendment to that statute as made by section 254 of the Act (albeit, that former 180-day timeframe lapsed on June 26, 2025, for any notice of indebtedness issued by VA as late as December 28, 2024).

Although the proposed rule did not distinguish the two timeframes for waiver requests based on the effective date of the change made to 38 U.S.C. 5302(a)(1) by section 254 of the Act, the former timeframe of 180 days for notices of indebtedness issued by VA from April 1, 1983, through December 28, 2024, is not relevant. That 180-day timeframe would have lapsed on June 26, 2025, for any notice of indebtedness that VA could have issued as late as December 28, 2024. We acknowledge that 38 U.S.C. 5302(a)(1) provides an exception to extend the 180-day timeframe if an individual could show their receipt of VA’s notice was delayed. However, as of the date of publication of this final rule, VA does not have knowledge that any individual issued a notice by VA as late as December 28, 2024, has otherwise submitted proof to VA that their receipt of VA’s notice was delayed in accordance with the current regulatory language in § 1.963(b)(2), that “as a result of an error by either the Department of Veterans Affairs or the postal authorities, or due to other circumstances beyond the debtor's control, there

was a delay in such individual's receipt of the notification of indebtedness beyond the time customarily required for mailing (including forwarding).” There would therefore be no risk to VA in publishing a final rule without any date(s) of VA notice otherwise referenced in 38 CFR 1.963(b).

This final rule therefore makes changes from the proposed rule to remove paragraph (b)(1) from § 1.963, and renumber and revise § 1.963(b)(2) as proposed to be a new paragraph (b) that retains the current one-year statutory timeframe in 38 U.S.C. 5302(a)(1) to submit a request for waiver, but removes the reference to notices of indebtedness by VA issued on or after April 1, 1983.

Executive Orders 12866, 13563, and 14192

VA examined the impact of this rulemaking as required by Executive Orders 12866 (Sept. 30, 1993) and 13563 (Jan. 18, 2011), which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. A regulatory impact analysis must be prepared for major rules with effects of \$100 million or more in any one year. The Office of Information and Regulatory Affairs has determined that this rulemaking is a significant regulatory action under section 3(f)(1) of Executive Order 12866, as supplemented by Executive Order 13563. This final rule is a deregulatory action under Executive Order 14192 because it reduces pressure on veterans by easing the compliance burden associated with debt waivers by allowing an additional six months to request a waiver. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act (RFA)

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601-612). The factual basis for this certification is

based on the fact that the final rule only affects individual veteran debtors, not small entities. In addition, the final rule gives debtors more time to request a waiver which will not have a negative economic impact on the debtors. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

This final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year.

Paperwork Reduction Act (PRA)

This rulemaking contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Congressional Review Act

This rule may result in an annual effect on the economy of \$100 million or more and is considered a major rule as defined by 5 U.S.C. 804(2). Thus, this rule is subject to a 60-day delayed effective date under 5 U.S.C. 801(a)(3).

List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Disability benefits, Penalties, Pensions, Wages.

SIGNING AUTHORITY

Douglas A. Collins, Secretary of Veterans Affairs, approved this document on November 5, 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.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 1 as set forth below:

PART 1—GENERAL PROVISIONS

1. The authority citation for part 1 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

2. Amend § 1.963 by revising paragraph (b) and the sectional authority to read as follows:

§ 1.963 Waiver; other than loan guaranty.

* * * * *

(b) *Application.* A request for waiver of an indebtedness under this section shall only be considered if made within one year following the date of a notice of indebtedness issued by the Department of Veterans Affairs to the debtor. The one-year period may be extended if the individual requesting waiver demonstrated to the Chairperson of the Committee on Waivers and Compromises that, as a result of an error by either the Department of Veterans Affairs or the postal authorities, or due to other circumstances beyond the debtor's control, there was a delay in such individual's receipt of the notification of indebtedness beyond the time customarily required for mailing (including forwarding). If the requester does substantiate that there was such a delay in the receipt of the notice of indebtedness, the Chairperson shall direct that the one-year period be computed from the date of the requester's actual receipt of the notice of indebtedness.

(Authority: 38 U.S.C. 5302(a) and (c); Pub. L. 117-328, Title II, Subtitle E, sec. 254 (Dec. 29, 2022), unless otherwise noted)