

REFERRALS FOR ENFORCED COLLECTION (LITIGATION)

1. REASON FOR ISSUE: To revise Department of Veterans Affairs (VA) debt management procedures formerly contained in VA Manual MP-4, Part VIII, Chapter 24, Referrals for Enforced Collection, and Chapter 25, VBA Referrals for Enforced Collection.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This handbook establishes the general procedural guidelines for the referral of debts for litigation.

3. RESPONSIBLE OFFICE: Cash and Debt Management Division (047GC1), Office of the Deputy Assistant Secretary for Finance.

4. RELATED DIRECTIVE: VA Directive 4800, Debt Management.

5. RESCISSIONS: VA Manual MP-4, Part VIII, Chapters 24 and 25, dated September 22, 1992.

CERTIFIED BY:

/s/

John A. Gauss
Assistant Secretary for
Information and Technology

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS**

/s/

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REFERRALS FOR ENFORCED COLLECTION

1. PURPOSE AND SCOPE. This handbook establishes standardized Department-wide procedures for administering the referral of debts to Regional Counsel (RC) or the Department of Justice (DOJ) for enforced collection. This handbook does not apply to medical care receivables established under 38 U.S.C. 1729, as these do not represent debts of a sum-certain amount. However, this handbook does apply to co-payments incurred by individuals for medical treatment and prescriptions, as well as other debts incurred by individuals for medical care and services.

2. RESPONSIBILITY. The Chief of the Fiscal Activity must ensure that appropriate procedures in accordance with this handbook are followed for administering the referral of debts for enforced collection. Any reference to the Fiscal Activity also includes the Debt Management Center (DMC) where appropriate.

3. AUTHORITY, JURISDICTION, AND GENERAL PROCEDURES

a. Referrals to the DOJ.

(1) In 1979, the General Accounting Office (GAO) gave the Department of Veterans Affairs (VA) authority to refer suitable debts arising under its compensation, pension, education assistance, educational loan, mortgage loan, and medical care programs directly to DOJ for enforced collection through litigation.

(2) The U.S. Attorney in the judicial district where the debtor resides will litigate debts where the principal balance is \$2,500 but no more than \$1,000,000. Claims will be addressed to: Department of Justice, Nationwide Central Intake Facility, 1110 Bonifant Street, Suite 220, Silver Spring, Maryland 20910-3358. Debts where the principal balance is over \$1,000,000 are to be sent to VA Central Office (VACO), Office of Financial Policy (047GC1) for review and referral to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530. Claims involving antitrust, fraud, and tax will be sent directly to the U.S. Attorney of jurisdiction, regardless of amount.

(3) Other collection tools, if available and appropriate, such as referral to the Treasury Department for cross-servicing and the Treasury Offset Program (TOP), or reporting to private collection agencies, should be used before referring debts for enforced collection.

(4) The U.S. Attorneys have been asked not to request photocopies of checks until such time as court action is imminent.

(5) DOJ has sole authority to collect, terminate, suspend, or compromise any debt referred by VA. VA shall not have any contact with the debtor once a debt is referred to DOJ. Any communication from the debtor concerning the debt will be referred to the appropriate U.S. Attorney for response. However, DOJ is to be immediately notified if any payments are received from the debtor.

(6) DOJ delegated VA authority to bring suit in its own right to collect certain benefit debts (see paragraph 3.b.(1)).

(7) DOJ will assess a three percent fee on all collections. The fee will be withheld by DOJ before collections are forwarded to VA.

b. RC Referrals.

(1) Public Law 96-466 gave VA authority to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by virtue of a person's participation in a benefits program administered by VA. In a Memorandum of Understanding between VA and DOJ dated March 3, 1987, the DOJ delegated VA primary responsibility to collect VA benefit debts of \$5,000 or less in certain judicial districts (see Appendix A), and \$2,500 or less in the remaining districts. The delegation authorized VA's RCs to file suit and conduct litigation in Federal district courts, bankruptcy courts, or state courts, and to compromise or close claims.

(2) The Fiscal activity will prepare and forward the referral package directly to the RC of jurisdiction where the debtor resides.

(3) The RCs are asked not to request photocopies of checks until such time as court action is imminent.

(4) Other collection tools, if available and appropriate, such as referral to the Treasury Department for cross-servicing and TOP, or reporting to private collection agencies, should be used before referring debts for enforced collection.

(5) Any communication received from the debtor concerning the debt after referral will be forwarded to the RC for response.

(6) Veterans Benefits Administration (VBA) field stations are to screen other local jurisdiction accounts receivable records for additional debts charged to the same person. The Benefits Delivery Network (BDN) system should also be queried for other debts. All eligible debts owed by the same person should be consolidated for referral.

4. APPLICATION OF STANDARDS. Debts that are not eligible for compromise, suspension, or write-off are to be promptly referred to the DOJ or RC for litigation when all of the following conditions exist:

a. The debtor has been located.

b. All demand letters were sent and the debtor was given the opportunity to submit a compromise offer, but either no response was received, an offer was received and rejected by appropriate authority, or the Chief of the fiscal activity determined that an exploration of compromise was not warranted.

c. The debtor was notified, at least 30 days prior to referral, of our intent to refer the debt and no satisfactory response was received. VA Form Letters 4-409/4-485 may be used to notify the debtor if an automated letter system is not in use.

d. Financial data indicates that the debtor has the ability to pay the debt in full or in regular monthly installments.

e. Fraud is not an issue.

f. No other benefit award exists which would allow VA to immediately begin to liquidate the indebtedness through administrative offset.

g. The Statute of Limitations has not expired.

h. No waiver or administrative appeal is pending.

5. DOLLAR LIMITS FOR REFERRALS

a. Debts of less than \$600, exclusive of interest and other late payment charges, will not be referred for litigation unless:

(1) Referral is important to a significant enforcement issue or departmental policy, or

(2) The debtor not only has the clear ability to pay the claim but the Government can effectively enforce payment.

(3) The claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. §3201 and returned to the Fiscal activity for enforcement.

b. The U.S. Attorneys in the Judicial Districts listed in Appendix A will only litigate debts in excess of \$5,000, exclusive of interest and other costs. Debts between \$600 and \$5,000 to be litigated in those Judicial Districts will be referred to RCs.

c. The U.S. Attorneys in the Judicial Districts *not* listed in Appendix A will litigate debts in excess of \$2,500, exclusive of interest and other costs. Debts between \$600 and \$2,500 to be litigated in those Judicial Districts will be referred to RCs.

d. For purposes of determining dollar thresholds for referral, multiple debts owed by one individual debtor that are eligible for referral should be consolidated.

6. DOCUMENTATION

a. The DOJ referral package will include:

(1) Claims Collection Litigation Report (CCLR), VA Form 9996.

(2) Certificate of Indebtedness (C of I), VA Form 5285. The C of I is part of the CCLR.

(3) Proper documentation to support the debt, e.g., VA Form 26-1833, Advice Regarding Indebtedness of Obligors on Guaranteed or Insured Loans, VA Form 10-10EZ, Application for Medical Benefits.

(4) Commercial Credit Report and VA Form 5655, Financial Status Report, if available, and other evidence of the debtor's ability to pay the debt. Credit reports should be no more than six months old at the time of referral and will be obtained from a contractor providing reports under a national General Services Administration (GSA) contract.

b. The RC referral package will include:

(1) C of I.

(2) Other pertinent documentation. At a minimum, VA Form 4-5244, CARS Master Record Printout, or VA Form 5319, List of Collection Actions, will be furnished. Other documents will be furnished upon request. The RCs should not request copies of documents normally filed in the claims folders.

(3) Commercial Credit Reports. Current credit reports (not more than six months old) obtained from a contractor providing reports under a national GSA contract.

7. ACCOUNTING/RECONCILIATION. Accounts referred to the RC/DOJ will remain on VA's books. Accounting entries are not required for debts referred for enforced collection. However, all VA components who refer accounts to DOJ must continue to maintain records reflecting the current status of these referrals. All VA components who refer debts to the RC will reconcile their records with the RC on a quarterly basis. As part of the reconciliation process, the RC will acknowledge receipt of the case, the dollar amount referred, and action they have taken on the case including the reporting of any payments they have received.

8. COLLECTIONS

a. DOJ Referrals.

(1) The U.S. Attorneys send collections, less collection fees, for all debts referred by VA to the St. Paul VA Regional Office (VARO) via the On-Line Payment and Collection (OPAC) system. The VARO verifies that the amount on the detailed listing equals the amount transferred via OPAC. The VARO resolves any discrepancies with the Department of Justice, Debt Management Section (DOJ/DMS).

(2) The St. Paul VARO is responsible for identifying the proper recipient of funds on OPAC and for transferring the funds to the appropriate regional office, medical center, or VACO Finance Service using SF 1081, Voucher and Schedule of Withdrawals and Credits. The St. Paul Office should contact the office of the U.S. Attorney whose name appears on the detailed listing when an amount collected cannot be identified.

(3) Funds that do not belong to VA will be returned to DOJ/DMS.

b. RC Referrals.

(1) Collection payments may be accepted by certified check, money order, bank draft, personal check, credit card, wire transfer, or cash.

(2) Collections are to be credited in a timely manner to the proper accounts. The RC must be notified promptly of the receipt of any collections or changes in an account.

(3) When a personal check is returned by the bank as uncollectible, the Fiscal activity will forward it to the RC who will take appropriate action to collect the amount. The accounts receivable amount will be increased by the amount of the check if the payment was previously posted.

(4) For most debts, the RCs will forward all payments received by them (on the date of receipt) to the applicable VA office for deposit and application. Exceptions are as follows:

(a) Centralized Accounts Receivable System (CARS) Debts.

1. Cash remittances for receivables established in CARS will be accepted and deposited locally in suspense account 36F3875 and transferred immediately to the Debt Management Center (DMC) using VA Form 4564-6, Transfer of Disbursing Authority.

2. Collections other than cash for receivables established will be accepted by field stations and will be transmitted to the St. Paul VARO for deposit and application.

(b) Medical Care Receivables (Other Than Third Party Insurance Claims).

Medical care accounts receivable are maintained locally by medical centers. The RCs must forward (preferably handcarry) all payments to the nearest agent cashier on the same day that they are received in order to ensure that all payments are deposited in accordance with Treasury requirements. The cashier will prepare a receipt to the RC who will forward the receipt to the medical center where the charges originated. The agent cashier will deposit collections into suspense account 38F3875 and will transfer collections to the appropriate medical center on VA Form 4564-6, Transfer of Disbursing Authority.

(c) Restored Entitlement Program for Survivors' (REPS) Receivables. RCs will forward collections to their local agent cashier on the same day of receipt. The data sheet provided by the RC with the collections will identify collections for REPS debts as "331/REPS." (This will be provided by the St. Louis Regional Office fiscal activity in block 9 of the C of I.) The agent cashier will deposit collections into suspense account 36F3875 and will transfer collections to the St. Louis Regional Office on a VA Form 4564-6, Transfer of Disbursing Authority. REPS collections will be identified with the same code: "331/REPS." *NOTE: Normally the RCs will receive only the first two payments and will then instruct the debtor to make successive payments directly to the St. Louis Regional Office.*

(d) Veterans Job Training Act (JOBS) Receivables: RCs will forward collections to their local agent cashier on the same day of receipt. The data sheet provided by the RC with the collections will identify collections for JOBS debts as "362/JOBS." (This will be provided by the Houston Regional Office fiscal activity in block 9 of the C of I.) The agent cashier will deposit collections into suspense account 36F3875 and will transfer collections to the Houston regional office on a VA Form 4564-6, Transfer of Disbursing Authority. JOBS collections will be identified with the same code: "362/JOBS." *NOTE: Normally the RCs will receive only the first two payments and will then instruct the debtor to make successive payments directly to the Houston Regional Office.*

9. VENDOR DEBTS

a. Vendor debts with a balance of at least \$2,500, exclusive of interest, administrative costs, penalties, and other charges, that meet the criteria for enforced collection will be referred to the U.S. Attorney in whose judicial district the vendor/contractor can be found. Applicable documentation, including a CCLR, will be included in the referral package.

b. When referring a vendor debt to DOJ, an additional copy of the C of I will be prepared and transmitted to VACO (047GC1) with a request that the indebtedness be published in the Department of the Army's "Holdup List."

(1) The Army maintains a "Holdup List" of indebted contractors. They have agreed to include debts of other Federal departments and agencies except for debts involving bankruptcy or fraud.

(2) Each month VACO (047GC1) will prepare a consolidated list of all C of I documents received during the month and submit the list to the Defense Finance and Accounting Service, Indianapolis Center, ATTN: DFAS-IN-GB, Indianapolis, IN

46249-0610. The list will be annotated that the debts have been referred to DOJ for enforced collection.

10. OTHER NONBENEFIT DEBTS. Nonbenefit debts with a balance of at least \$2,500, exclusive of interest, administrative costs, penalties, and other charges, that meet the criteria for enforced collection will be referred to the U.S. Attorney in whose judicial district the debtor can be found. This includes salary overpayments and other nonbenefit debts owed by terminated employees remaining after offset from salary, lump-sum payment, Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS). Applicable documentation, including a CCLR, must be included in the referral package.

11. REPORTS

a. A quarterly Department of Justice Debt Collection Report (RCS 04-0462), VA Form 5320a, is required. See MP-4, Part VIII, Chapter 27, Records, Reports, and Accounting (to be replaced by VA Handbook 4800.20) for instructions.

b. A quarterly Regional Counsel Debt Collection Report (RCS 04-0464), VA Form 5320b, is required. See MP-4, Part VIII, Chapter 27, Records, Reports, and Accounting (to be replaced by VA Handbook 4800.20) for instructions.

12. CHAPTER 35 ACCOUNTS RECEIVABLE (A/R). Before referring a Chapter 35 A/R to the DOJ or RC, the regional office fiscal activity shall make an inquiry of the BDN System to determine the existence and pay status of a REPS debt. If a REPS debt exists, the RC or U.S. Attorney will be notified that a REPS debt may be referred in the near future for the same debtor.

13. VBA REGIONAL OFFICE PROCEDURES FOR CARS DEBTS

a. When a debt maintained in CARS is to be referred to DOJ, the DMC will send a VA Form 4-5280, Request for Documentation of Overpayment, to the regional office. The regional office will photocopy documentation requested and return the package (including VA Form 4-5280) to the DMC within 30 days of the date of the request.

b. The regional office will also screen all other local jurisdiction accounts receivable for additional debts charged to the same person. If a debt is found that meets referral criteria, a referral package will be prepared regardless of amount of the debt. The referral package will be sent to the DMC together with the documentation required for the CARS debt.

14. REFERRAL OF CHAPTER 1606 DEBTS FOR ENFORCED COLLECTION

a. General.

(1) The Montgomery GI Bill, in addition to the Chapter 30 Education program codified in 38 U.S.C. §§3001-3036, also provides for an educational assistance program for individuals entering military service in the Selected Reserve, including the National Guard, after June 30, 1985. This program, also referred to as the Montgomery GI Bill-Selected Reserve, is found in 10 U.S.C. Chapter 1606.

(2) The DMC has collection responsibility for Chapter 1606 overpayments (responsibility was transferred from the St. Louis Regional Office to the DMC in 1994).

This section pertains to Chapter 1606 debts that meet the requirements for referral to the RCs or U.S. Attorneys for enforced collection.

b. DMC Finance Procedures.

(1) The DMC must ensure that Chapter 1606 debts are in a current status. Current status means that demand letters have been sent timely and that DMC records reflect an accurate description of all actions taken.

(2) Referrals to the U.S. Attorneys must include a CCLR, VA Form 9996, which includes a C of I.

c. Procedures for 57B Accounts Receivable. Chapter 1606 57B A/Rs are debts established when the Department of Defense (DoD) determines that reservists are not eligible for benefits because they have not met required service obligations. In order to ensure that only legally enforceable 57B A/Rs are referred for enforced collection, the following procedures are to be followed:

(1) DMC

(a) Obtain a valid address for each debtor.

(b) Send first collection letter stating amount of debt, reason for debt, and due process rights.

(c) Send letter to commanding officer at the same time to verify eligibility status.

(d) If the reservist disputes the debt, suspend collection action for six months to allow DoD time to certify the accuracy of their records. Resume collection after DoD indicates there has been no error on its part.

(e) Refer for enforced collection if no reply or payment is received 30 days after a third collection letter is sent.

(2) Regional Offices. If a reservist disputes a 57B A/R or if correspondence is received from DoD stating that a reservist previously declared ineligible for Chapter 1606 benefits is now eligible, forward the dispute or correspondence to the DMC which will then suspend collection activity until the dispute is resolved.

(3) Other Chapter 1606 debts (non 57B A/Rs) are treated as any other Readjustment Benefit debt.

d. Collections by RC and DOJ.

(1) **Collections Made by RCs.** RCs will forward collections to their local agent cashier on the same day of receipt. Normally the RCs will receive only the first two payments (in cases of extended repayment plans) and will then instruct the debtor to make successive payments to the DMC.

(2) **Collections Made by U.S. Attorneys.** The DMC must insure that their DOJ agency code is on the CCLR when a debt is referred so that any collections are forwarded to them.

15. CLAIMS COLLECTION LITIGATION REPORT (CCLR)

a. **General.** 31 CFR §904.2, of the Federal Claims Collection Standards (FCCS), requires that all debts referred to the DOJ for litigation or write-off authority be accompanied by a CCLR, VA Form 9996.

b. **Instructions for Preparation.**

(1) Instructions for the preparation of the CCLR are issued with VA Form 9996.

(2) The appropriate DOJ Agency Code, as listed in Appendix B, will be entered at the top of page 1.

**DOJ JUDICIAL DISTRICTS WHERE DOJ DELEGATED PRIMARY RESPONSIBILITY
TO VA FOR COLLECTION OF DEBTS \$5,000 OR LESS**

ARIZONA
ARKANSAS, EASTERN
ARKANSAS, WESTERN
CALIFORNIA, CENTRAL
CALIFORNIA, EASTERN
CALIFORNIA, NORTHERN
COLORADO
CONNECTICUT
FLORIDA, MIDDLE
FLORIDA, NORTHERN
FLORIDA, SOUTHERN
GEORGIA, MIDDLE
GEORGIA, SOUTHERN
IDAHO
ILLINOIS, NORTHERN
IOWA, NORTHERN
IOWA, SOUTHERN
KANSAS
KENTUCKY, EASTERN
KENTUCKY, WESTERN
LOUISIANA, EASTERN
LOUISIANA, MIDDLE
LOUISIANA, WESTERN
MAINE
MARYLAND
SOUTH DAKOTA
TENNESSEE, EASTERN
TENNESSEE, WESTERN
TENNESSEE, MIDDLE
TEXAS, EASTERN
TEXAS, NORTHERN
TEXAS, SOUTHERN
TEXAS, WESTERN

MASSACHUSETTS
MICHIGAN, EASTERN
MICHIGAN, WESTERN
MISSOURI, EASTERN
MISSOURI, WESTERN
MONTANA
NEBRASKA
NEVADA
NEW HAMPSHIRE
NEW JERSEY
NEW MEXICO
NEW YORK, EASTERN
NORTH CAROLINA, MIDDLE
NORTH CAROLINA, WESTERN
NORTH DAKOTA
OHIO, NORTHERN
OHIO, SOUTHERN
OKLAHOMA, EASTERN
OKLAHOMA, WESTERN
OREGON
PENNSYLVANIA, EASTERN
PENNSYLVANIA, WESTERN
PUERTO RICO
RHODE ISLAND
SOUTH CAROLINA
UTAH
VERMONT
WASHINGTON, EASTERN
WASHINGTON, WESTERN
WEST VIRGINIA, NORTHERN
WEST VIRGINIA, SOUTHERN
WISCONSIN, WESTERN
WYOMING

DOJ AGENCY CODES

VBA Regional Offices

Station Number		DOJ Agency Code
301	Boston MA	VRMA
304	Providence RI	VRRI
306	New York, NY	VRNY
307	Buffalo, NY	VRNB
308	Hartford, CT	VRCH
309	Newark, NJ	VRNJ
311	Pittsburgh, PA	VRPP
313	Baltimore, MD	VRMD
314	Roanoke, VA	VRVA
315	Huntington WV	VRWV
316	Atlanta, GA	VRGA
317	St. Petersburg, FL	VRFL
318	Winston-Salem, NC	VRNC
319	Columbia, SC	VRSC
320	Nashville, TN	VRTN
321	New Orleans, LA	VRLA
322	Montgomery, AL	VRAL
323	Jackson, MS	VRMS
325	Cleveland, OH	VROH
326	Indianapolis, IN	VRIN
327	Louisville, KY	VRKY
328	Chicago, IL	VRIL
329	Detroit, MI	VRMI
330	Milwaukee, WI	VRWI
331	St. Louis, MO	VRMO
333	Des Moines, IA	VRIA
334	Lincoln, NE	VRNE
339	Denver, CO	VRCD
340	Albuquerque, NM	VRNM
341	Salt Lake City, UT	VRUT
343	Oakland, CA	VRSF
344	Los Angeles, CA	VRLS
345	Phoenix, AZ	VRAZ
346	Seattle, WA	VRWA
347	Boise, ID	VRID
348	Portland, OR	VROR
349	Waco, TX	VRTW
350	Little Rock, AR	VRAR
351	Muskogee, OK	VROK
354	Reno, NV	VRNV
459	Honolulu, HI	VRHI
362	Houston, TX	VRTH
463	Anchorage, AK	VRAK
372	Washington, DC	VRDC
373	Manchester, NH	VRNH
377	San Diego, CA	VRCS
402	Toqus, ME	VRME
405	White River Junction, VT	VRVT

DOJ AGENCY CODES (CONTINUED)

VBA Regional Offices

Station Number		DOJ Agency Code
436	Fort Harrison, MT	VRMT
437	Fargo, ND	VRND
438	Sioux Falls, SD	VRSD
442	Cheyenne, WY	VRWY
452	Wichita, KS	VRKS
355	San Juan, PR	VRPR
460	Wilmington, DE	VRDE

VA Regional Offices and Insurance Centers (VARO&IC)

310	Philadelphia, PA	VRPH
335	St. Paul, MN	VASP

Debt Management Center, St. Paul

389	DMC	VASP
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Medical Center and Domiciliaries

All Stations		VATX
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VA Central Office

101	VACO Washington, DC	VAHQ
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