



OVERPAYMENTS

You got a letter from the VA saying you were overpaid. You cannot afford to pay the money back – in fact, you're barely scraping by as it is. What can you do?

ACT NOW! If you file an appeal or ask for a waiver *within 30 days*, the VA must continue to pay you full monthly benefits until your appeal or waiver request is decided.

What causes a VA overpayment?

There are many causes for a VA overpayment. A veteran may receive VA benefits for which he or she was not eligible. For example, a veteran who gets a VA pension must be low-income and have few assets. Most kinds of income reduce a veteran's pension dollar-for-dollar. If this income isn't reported, a veteran could be paid too much.

How can the VA collect an overpayment?

The VA may collect a debt by offsetting the debtor's VA benefits. The VA may also ask the I.R.S. to seize the debtor's tax refund. When debts are more than 180 days overdue, the VA must report the debt to the U.S. Treasury Department for administrative offset or collection.

What should I do if I get a notice of overpayment?

If you aren't sure if you owe the debt, you can ask for an audit of your account. Then the VA should provide a detailed explanation of the charges. If you don't think you owe the debt, you can appeal the overpayment. You can also ask for a waiver if it would be against equity and good conscience for the VA to collect it. Basically, this means the veteran was not at fault in causing the overpayment and cannot afford to pay it back. A veteran can ask for an audit, appeal or waiver separately or at the same time.

Is there a deadline to appeal or request a waiver?

You must ask for a waiver within 180 days after the date on the notice. Generally, there is no deadline to appeal but if you appeal or ask for a waiver within 30 days, VA will not collect this debt until making a decision on your appeal/waiver.

Where do I send my appeal or request for waiver?

The Committee on Waivers and Compromises, located in St. Paul, Minnesota, is responsible for deciding whether to grant a veteran's request for waiver or to compromise a VA debt. If you live in Iowa and are requesting a waiver or compromise, the request should be sent by certified mail to both:

- VA Regional Office (VARO)
210 Walnut Street
Des Moines, IA 50309 **AND**
- Committee on Waivers and Compromises
P.O. Box 11930
St. Paul, MN 55111.

What do I need to prove in order for the VA to waive the overpayment?

You must show:

- the overpayment was not the result of any fraud and misrepresentation, or bad faith on your part; and
- collecting the overpayment would be against "equity and good conscience."

What is "fraud and misrepresentation or bad faith"?

The Committee will look to see if you intentionally misled the VA about an important fact, or failed to tell them something important in order to get or keep some benefit.

What does "equity and good conscience" mean?

Factors the Committee looks at to decide whether collecting the debt would be against equity and good conscience include:

1. VA will balance the veteran's and VA's degree of fault in causing the overpayment.
2. VA will consider whether repaying the debt would work an undue hardship on the veteran.
3. VA will consider whether the veteran was unjustly enriched (i.e., whether the veteran had any unfair gain) as the result of the debt or overpayment.
4. VA will consider whether forcing repayment of the debt or overpayment would defeat the purpose of a VA benefit

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program. The purpose of the VA pension program, for example, is to allow disabled veterans to have enough income to pay for basic necessities. It might defeat the purpose of the VA pension program, therefore, if collecting the overpayment would prevent the veteran from paying for basic necessities.

5. VA will consider whether the veteran changed his or her position in some way because he or she relied on an error by the VA.

Can I get a hearing before the Committee on my request for waiver?

Yes, a veteran is always entitled to an oral hearing on his or her request for waiver, either in person or by telephone conference call. The hearing is held at the VARO.

What do I do if the Committee denies my waiver request?

You need to send a **Notice of Disagreement** to the Committee. The Chairperson will assign your case to members of the Committee who did not make the original decision. If the Committee again decides you are not entitled to a waiver, they must issue a **Statement of the Case** (or SOC). If you disagree with this decision, you need to file VA Form 9 to appeal the decision to the Board of Veterans Appeals.

What is a “compromise”?

A compromise is when the VA accepts less than the full amount owed for payment of a debt or repayment of less than the full amount of an overpayment in settlement and as payment in full for the debt.

When should I ask for a compromise?

You can ask for a compromise at any time after you get notice of the overpayment. If you file a request for a compromise while your request for a waiver is being considered, however, the Committee will assume you changed your position on the waiver. They will deal with the compromise first.

Are there any limits to the amount of the debt or overpayment the Committee can consider for a compromise?

A debt of \$100,000 or more cannot be reduced unless it was due to a foreclosed VA loan. The VA will not consider a compromise if there is any dispute as to the amount of the debt or when there is any fraud or misrepresentation.

What does the Committee consider when deciding whether to accept an offer of compromise?

The Committee looks at the following factors to decide whether to accept your compromise offer:

1. If you would be able to repay the full amount of the debt in a reasonable time (usually 3-5 years).
2. Your age and health, as well as your current and future income potential.
3. If you are likely to inherit money.
4. What assets you could use to pay the debt.
5. The costs of collecting the debt.

Can I appeal a denial of my offer to compromise?

There is no right to appeal the Committee’s denial of a compromise offer. If your situation changes, you can ask the committee to reconsider their decision.

Helping low-income Iowans with legal issues including income maintenance and health care is among the priorities of Iowa Legal Aid. If you have a legal problem involving a topic discussed in this information, you should talk to a lawyer. To find out if you can get free legal help from Iowa Legal Aid:

- *Apply online anytime at iowalegalaid.org or*
- *Call 1-800-532-1275. M-F 9-11 am and 1:30-3:30 pm except Thursday afternoon.*

Appeal services are also offered at no cost by County Commission of Veterans Affairs offices.

The information in this *Fact Sheet* was correct as of the date of its last review (January 2014). The laws may have changed. **DO NOT ASSUME THE INFORMATION IS CORRECT AFTER THE DATE OF ITS LAST REVIEW.**

You should see a lawyer to get complete, correct, and up-to-date legal advice. Do not rely on the general information in this *Fact Sheet* for your specific case. If you need a lawyer but can’t afford one, contact Iowa Legal Aid. You may be able to get free legal help. Call or write Iowa Legal Aid or apply online anytime at iowalegalaid.org. **AS YOU READ THIS INFORMATION, REMEMBER IT IS NOT A SUBSTITUTE FOR LEGAL ADVICE.**

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