

### § 30.23

(c)(1) In determining whether a debtor has requested an opportunity set forth under paragraph (b)(3) of this section in a timely manner, the Secretary relies on:

(i) A legibly dated U.S. Postal Service postmark for the debtor's request; or

(ii) A legibly stamped U.S. Postal service mail receipt for debtor's request.

(2) The Secretary does not rely on either of the following as proof of mailing;

(i) A private metered postmark.

(ii) A mail receipt that is not dated by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method for proof of mailing, a debtor should check with its local post office.

(d) If a debtor previously has been notified of the Secretary's intent to offset or offered an opportunity to take any of the actions set forth in paragraph (b)(3) of this section in connection with the same debt, the Secretary may offset without providing the debtor with an additional notice of intent or opportunity to take any of those actions under these offset procedures.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

### § 30.23 How must a debtor request an opportunity to inspect and copy records relating to a debt?

(a) If a debtor wants to inspect and copy Department documents relating to the debt, the debtor must:

(1) File a written request to inspect and copy the documents within 20 days after the date of the notice provided under § 30.22; and

(2) File the request at the address specified in that notice.

(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the debt, including the debtor's Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) A reasonably specific identification of the records the debtor wishes to

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have available for inspection and copying.

(c) The Secretary may decline to provide an opportunity to inspect and copy records if the debtor fails to request inspection and copying in accordance with this section.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35646, Oct. 7, 1986]

### § 30.24 What opportunity does the debtor receive to obtain a review of the existence or amount of a debt?

(a) If a debtor wants a review within the Department of the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii), the debtor must:

(1) File a request for review within 20 days after the date of the notice provided under § 30.22; and

(2) File a request at the address specified in that notice.

(b) A request filed under paragraph (a) of this section must contain:

(1) All information provided to the debtor in the notice under § 30.22 or § 30.33(b) that identifies the debtor and the particular debt, including the debtor's Social Security number and the program under which the debt arose, together with any corrections of that identifying information; and

(2) An explanation of the reasons the debtor believes that the notice the debtor received under § 30.22 or § 30.33(b) inaccurately states any facts or conclusions relating to the debt.

(c) The Secretary may decline to provide an opportunity for review of a debt if the debtor fails to request the review in accordance with this section.

(d)(1) The debtor shall:

(i) File copies of any documents relating to the issues identified in the notice under § 30.22(b)(3)(ii) or § 30.33(b)(3)(ii) that the debtor wishes the Secretary to consider in the review;

(ii) File the documents at the address specified in that notice, and

(iii) File the documents no later than:

(A) 20 days after the date of the notice provided under § 30.22; or

(B) If the debtor has requested an opportunity to inspect and copy records under §30.23 within the time period specified in that section, 15 days after the date on which the Secretary makes available to the debtor the relevant, requested records.

(2) The Secretary may decline to consider any reasons or documents that the debtor fails to provide in accordance with paragraphs (b) and (d) of this section.

(e) If the Secretary bases the review on only the documentary evidence, the Secretary:

(1) Reviews the documents submitted by the debtor and other relevant evidence; and

(2) Notifies the debtor in writing of the Secretary's decision regarding the issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii) and, if appropriate, the question of waiver of the debt.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35647, Oct. 7, 1986]

### § 30.25 How may a debtor obtain an oral hearing?

(a) If a debtor wants the Secretary to conduct the review requested under §30.24 as an oral hearing, the debtor must file a written request for an oral hearing together with the request for review filed under §30.24(a).

(b) A request filed under paragraph (a) of this section must contain the following in addition to the information filed under §30.24(b):

(1) An explanation of reason(s) why the debtor believes the Secretary cannot resolve the issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii) through a review of the documentary evidence.

(2) An identification of:

(i) The individuals that the debtor wishes to have testify at the oral hearing;

(ii) The specific issues identified in the notice regarding which each individual is prepared to testify; and

(iii) The reasons why each individual's testimony is necessary to resolve the issue.

(c) The Secretary grants a debtor's request for an oral hearing regarding the issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii) only if:

(1)(i) A statute authorizes or requires the Secretary to consider waiver of the indebtedness involved;

(ii) The debtor files a request for waiver of the indebtedness with the request for review filed under paragraph (a)(1) of this section; and

(iii) The question of waiver of the indebtedness turns on an issue of credibility or veracity; or

(2) The Secretary determines that the issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii) cannot be resolved by review of only the documentary evidence.

(d) Notwithstanding paragraph (b) of this section, the Secretary may deny oral hearings for a class of similar debts if:

(1) The issues identified in the notice under §30.22(b)(3)(ii) or §30.33(b)(3)(ii) for which an oral hearing was requested, or the issue of waiver, rarely involve issues of credibility or veracity; and

(2) The Secretary determines that review of the documentary evidence is ordinarily an adequate means to correct mistakes.

(e) The Secretary may decline to consider any reasons that the debtor fails to provide in accordance with paragraph (b)(1) of this section.

(Approved by the Office of Management and Budget under control number 1880-0515)

(Authority: 20 U.S.C. 1221e-3(a)(1) and 1226a-1, 31 U.S.C. 3716(b))

[51 FR 24099, July 1, 1986, as amended at 51 FR 35647, Oct. 7, 1986]

### § 30.26 What special rules apply to an oral hearing?

(a) The oral hearing under §30.25 is not a formal evidentiary hearing subject to 5 U.S.C. 554, unless required by law.

(b) If the Secretary grants an oral hearing, the Secretary notifies the debtor in writing of:

(1) The time and place for the hearing;

(2) The debtor's right to representation; and

(3) The debtor's right to present and cross examine witnesses.