

Department of Veterans Affairs

§ 18.550

paragraph (a)(1) of this section is initiated.

(1) New Federal financial assistance from VA includes all assistance for which VA requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities during the deferral period. New Federal financial assistance from VA does not include increases in funding resulting solely from a change in the formula or method of computing awards, nor does it include assistance approved prior to the beginning of a hearing under paragraph (a)(1) of this section.

(2) VA will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under paragraph (a)(1) of this section. VA will not continue a deferral for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the Secretary. VA will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

(Authority: 42 U.S.C. 6101-6107)

[50 FR 34133, Aug. 23, 1985, as amended at 68 FR 51372, Aug. 26, 2003]

§ 18.547 Hearings, decisions, post-termination proceedings.

Certain VA procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to VA enforcement of these regulations. They are found at §§ 18.9 through 18.11 and part 18b of this title.

(Authority: 42 U.S.C. 6101-1607)

§ 18.548 Remedial action by recipient.

Where VA finds that a recipient has discriminated on the basis of age, the recipient shall take any remedial action that VA may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, VA may require both recipients to take remedial action.

(Authority: 42 U.S.C. 6101-1607)

§ 18.549 Alternate funds disbursement procedure.

(a) When VA withholds funds from a recipient under these regulations, the Secretary may disburse the withheld funds directly to an alternate recipient: Any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Secretary will require any alternate recipient to demonstrate;

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the Federal financial assistance.

(Authority: 42 U.S.C. 6101-1607)

[50 FR 34133, Aug. 23, 1985, as amended at 68 FR 51372, Aug. 26, 2003]

§ 18.550 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and VA has made no finding with regard to the complaint; or

(2) VA issues any finding in favor of the recipient.

(b) If VA fails to make a finding within 180 days or issues a finding in favor of the recipient, VA will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant that:

(i) The complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) A complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but the complainant must demand these costs in the complaint;

(iii) Before commencing the action, the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;