

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## PEACE CORPS

### 22 CFR Part 309

RIN 0420-AA22

#### Debt Collection

AGENCY: Peace Corps.

ACTION: Proposed rule.

**SUMMARY:** The Peace Corps is revising its current regulations on debt collection. The revisions will clarify and simplify Peace Corps' debt collection procedures and practices. It eliminates the tax refund offset provisions of the previous regulation, and consolidates the administrative and tax refund offset provisions into one section.

**DATES:** Comments must be received by March 24, 2008.

**ADDRESSES:** Comments should be submitted to Tyler Posey, General Counsel, Office of the General Counsel, 8th Floor, 1111 20th Street, NW., Washington, DC 20526.

**FOR FURTHER INFORMATION CONTACT:** Suzanne B. Glasow, Associate General Counsel, 202-692-2157.

#### SUPPLEMENTARY INFORMATION:

#### Section-by-Section Analysis

##### Subpart A—General Provisions

The subpart announces the general purpose and scope of the regulation, provides definitions and terms used in this regulation, and this regulation's interaction with other regulations and procedures. Charges for interest, penalties and administrative expenses are addressed. Procedures for installment payments are provided. Authority to carry out the necessary duties for debt collection is delegated to the Chief Financial Officer.

##### Subpart B—Collection Actions

The subpart provides for aggressive collection efforts by the Peace Corps, and the timely turnover of past due collections to the Department of the Treasury. Procedures for written demand of payment and debtor review

of the debt are provided. Methods of debt collection are listed.

##### Subpart C—Salary Offset

The subpart provides for salary offset collection procedures. Coordination of salary offset of another Federal Agency is addressed. Notice requirements prior to salary offset are listed. Outside hearings prior to salary offset is addressed.

##### Executive Order 12866

This regulation has been determined to be non-significant within the meaning of Executive Order 12866.

##### Regulatory Flexibility Act

The Peace Corps Director, in accordance with the Regulatory Flexibility Act, (5 U.S.C. 605) has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation pertains to the administrative collection of individual debts owed to the Peace Corps, and does not affect acquisition, inter-Agency, or foreign claims.

##### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### List of Subjects in 22 CFR Part 303

Claims.

For the reasons stated in the preamble, Peace Corps proposes to revise 22 CFR part 303, as set forth below:

## PART 309—DEBT COLLECTION

### Section Contents

#### Subpart A—General Provisions

Sec.

- 309.1 General purpose.
- 309.2 Scope.
- 309.3 Definitions.
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#### Subpart B—Collection Actions

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- 309.12 Purpose.
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- 309.14 Coordinating offset with another Federal agency.
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- 309.16 Review.
- 309.17 Procedures for salary offset.
- 309.18 Voluntary repayment agreements as an alternative to salary offset.
- 309.19 Waiver.
- 309.20 Compromise.
- 309.21 Suspension of collection.
- 309.22 Termination of collection.
- 309.23 Discharge.
- 309.24 Bankruptcy.

**Authority:** 31 U.S.C. 3701–3719; 5 U.S.C. 5514; 22 U.S.C. 2503(b); 31 U.S.C. 3720A; 31 CFR part 285; 5 CFR 550, subpart K.

#### Subpart A—General Provisions

##### § 309.1 General purpose.

This part prescribes the procedures to be used by the United States Peace Corps (Peace Corps) in the collection and/or disposal of non-tax debts owed to Peace Corps and to the United States.

##### § 309.2 Scope.

(a) Applicability of Federal Claims Collection Standards (FCCS). Peace Corps hereby adopts the provisions of the Federal Claims Collections Standards (31 CFR parts 900–904) and, except as set forth in this part or otherwise provided by law, Peace Corps will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the FCCS.

(b) This part is not applicable to:

(1) Peace Corps claims against another Federal agency, any foreign country or any political subdivision thereof, or any public international organization.

(2) Debts arising out of acquisitions contracts subject to the Federal Acquisition Regulation (FAR) shall be determined, collected, compromised, terminated, or settled in accordance with those regulations (see 49 CFR part 32).

(3) Claims where the Peace Corps Director (or designee) determines that the achievement of the purposes of the Peace Corps Act, as amended, 22 U.S.C. 2501 et seq., or any other provision of

law administered by the Peace Corps require a different course of action.

### § 309.3 Definitions.

As used in this part (except where the context clearly indicates, or where the term is otherwise defined elsewhere in this part) the following definitions shall apply:

(a) *Administrative offset* means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the person to the United States.

(b) *Administrative wage garnishment* means the process by which a Federal agency orders a non-Federal employer to withhold amounts from an employee's wages to satisfy a debt the employee owes to the United States.

(c) *Compromise* means that the creditor agency accepts less than the full amount of an outstanding debt in full satisfaction of the entire amount of the debt.

(d) *Debt* or *claim* means an amount of money which has been determined by an appropriate agency official to be owed to the United States from any person. As used in this part, the terms debt and claim are synonymous.

(e) *Debtor* means a person who owes the Federal Government money.

(f) *Delinquent debt* means any debt, which has not been paid by the date specified in an agency's initial written notification or in an applicable agreement, unless other satisfactory payment arrangements have been made.

(g) *Discharge* means the release of a debtor from personal liability for a debt. Further collection action is prohibited.

(h) *Disposable pay* has the same meaning as that term is defined in 5 CFR 550.1103.

(i) *Employee* means a current employee of the Peace Corps or other Federal agency, including a member of the Armed Forces or Reserve of the Armed Forces of the United States.

(j) *FCCS* means the Federal Claims Collection Standards jointly published by the Department of the Treasury and the Department of Justice at 31 CFR parts 900–904.

(k) *Person* means an individual, corporation, partnership, association, organization, State or local government, or any other type of entity other than a Federal agency, foreign government, or public international organization.

(l) *Salary offset* means the withholding of amounts from the current pay account of a Federal employee to satisfy a debt owed by that employee to the United States.

(m) *Suspension* means the temporary cessation of an active debt collection pending the occurrence of an anticipated event.

(n) *Termination* means the cessation of all active debt collection action for the foreseeable future.

(o) *Waiver* means the decision to forgo collection of a debt owed to the United States as permitted or required by law.

### § 309.4 Other procedures or actions.

(a) Nothing contained in this regulation is intended to require Peace Corps to duplicate administrative proceedings required by contract or other laws or regulations.

(b) Nothing in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

(c) Nothing contained in this regulation is intended to deter Peace Corps from demanding the return of specific property or from demanding the return of the property or the payment of its value.

(d) The failure of Peace Corps to comply with any provision in this regulation shall not serve as a defense to the debt.

### § 309.5 Interest, penalties, and administrative costs.

(a) Except as otherwise provided by statute, contract or excluded in accordance with FCCS, Peace Corps will assess:

(b) Interest on unpaid debts in accordance with 31 CFR 901.9.

(c) Penalty charges at a rate of 6 percent a year or such other rate as authorized by law on any portion of a claim that is delinquent for more than 90 days.

(d) Administrative charges to cover the costs of processing and handling delinquent debts.

(e) Late payment charges shall be computed from the date of mailing or hand delivery of the notice of the claim and interest requirements.

(f) When a debt is paid in partial or installment payments, amounts received shall be applied first to outstanding penalty and administrative cost charges, second to accrued interest, and then to outstanding principal.

(g) Waiver. Peace Corps will consider waiver of interest, penalties and/or administrative costs in accordance with the FCCS, 31 CFR 901.9(g).

### § 309.6 Collection in installments.

Whenever feasible, and except as required otherwise by law, debts owed to the United States, together with interest, penalties, and administrative costs as required by this regulation, should be collected in one lump sum. This is true whether the debt is being collected under administrative offset, including salary offset, or by another

method, including voluntary payment. However, if the debtor is financially unable to pay the indebtedness in one lump sum, payment may be accepted in regular installments. If Peace Corps agrees to accept payment in installment, it may require a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and which contains a provision accelerating the debt in the event the debtor defaults. The size and frequency of the payments should bear a reasonable relation to the size of the debt and ability of the debtor to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the Government's claim within three years.

### § 309.7 Designation.

The Chief Financial Officer is delegated authority and designated to perform all the duties for which the Director is responsible under the forgoing statutes and joint regulations.

## SUBPART B—COLLECTION ACTIONS

### § 309.8 Application.

(a) Peace Corps shall aggressively collect claims and debts in accordance with these regulations and applicable law.

(b) Peace Corps will transfer to the Department of the Treasury, Financial Management Service (FMS) any past due, legally enforceable non-tax debt that has been delinquent for 180 days or more so that FMS may take appropriate action to collect the debt or take other appropriate action in accordance with applicable law and regulation.

(c) Peace Corps may transfer any past due, legally enforceable debt that has been delinquent for fewer than 180 days to FMS for collection in accordance with applicable law and regulation. (See 31 CFR part 285)

### § 309.9 Notice—written demand for payment.

(a) Upon determination that a debt is owed to Peace Corps or the United States, Peace Corps shall promptly hand deliver or send by first-class mail (to the debtor's most current address in the records of Peace Corps) at least one written notice (e.g., Bill of Collection or demand letter) informing the debtor of the consequences of failing to pay or otherwise resolve a Peace Corps debt, subject to paragraph (c) of this section. Written demand under this subpart may be preceded by other appropriate actions under this part and or the FCCS, including but not limited to actions taken under the procedures applicable to administrative offset, including salary offset.

(b) The written notice shall inform the debtor of:

(1) The nature and amount of the debt, and the facts giving rise to the debt;

(2) The date by which payment should be made to avoid the imposition of interest, penalties, and administrative costs, and the enforced collection actions described in section 309.5 of this part;

(3) The applicable standards for imposing interest, penalties and administrative costs to delinquent debts;

(4) Peace Corps' willingness to discuss alternative payment arrangements and how the debtor may enter into a written agreement to repay the debt under terms acceptable to Peace Corps;

(5) The name, address, and telephone number of a contact person or office within Peace Corps;

(6) Peace Corps' intention to enforce collection if the debtor fails to pay or otherwise resolve the debt, by taking one or more of the following actions:

(i) Offset from Federal payments otherwise due to the debtor, including income tax refunds, salary, certain benefit payments, retirement, vendor payments, travel reimbursement and advances, and other Federal payments;

(ii) Referral to private collection agency;

(iii) Report to credit bureaus;

(iv) Administrative wage garnishment;

(v) Referral to Department of Justice for litigation action;

(vi) Referral to Financial Management Service of the Department of the Treasury for collection;

(vii) Other actions as permitted by the FCCS and applicable law.

(7) How the debtor may inspect and copy records related to the debt;

(8) The debtor's opportunity for an internal review of Peace Corps' determination that the debtor owes a debt or the amount of the debt;

(9) The debtor's right, if any, to request waiver of collection of certain debts, as applicable;

(10) Requirement that the debtor advise Peace Corps of any bankruptcy proceeding of the debtor.

(c) Peace Corps may omit from a notice to a debtor one or more of the provisions contained in paragraphs (b)(6) through (b)(10) of this section if Peace Corps determines that any provision is not legally required given the collection remedies to be applied to a particular debt, or which have already been provided by prior notice, applicable agreement, or contract.

#### **§ 309.10 Review requirements.**

(a) For purposes of this section, whenever Peace Corps is required to

afford a debtor a review within the agency, Peace Corps shall provide the debtor with an opportunity for an internal review of the existence or the amount of the debt. For offset of current Federal salary under 5 U.S.C. 5514 for certain debts, debtors may also request an outside hearing. See subpart C of this part.

(b) Any request for a review must be in writing to the contact office by the payment due date stated in the initial notice sent under § 309.9(b) or other applicable provision. The debtor's request shall state the basis for the dispute and include any relevant documentation in support.

(1) Peace Corps will provide for an internal review of the debt by an appropriate agency official. The review may include examination of documents, internal discussions with relevant officials and discussion by letter or orally with the debtor, at Peace Corps' discretion.

(2) An oral hearing is not required when, in Peace Corps' determination, the matter can be decided on the documentary record. Peace Corps will provide a "paper hearing", that is, a determination based upon a review of the written record unless Peace Corps makes a determination that a debt involves issues of credibility or veracity, at which point an oral hearing may be required. Unless otherwise required by law, such oral hearing shall not be a formal evidentiary hearing.

#### **§ 309.11 Collection.**

Upon final determination of the existence and amount of a debt, unless other acceptable payment arrangements have been made or procedures under a specific statute apply, Peace Corps shall collect the debt by one or more of the methods described in § 309.9(b)(6)(i-vii) or as otherwise authorized by law and regulation.

(a) Administrative offset—

(1) Payments otherwise due the debtor from the United States shall be offset from the debt in accordance with 31 CFR 901.3. These may be funds under the control of Peace Corps or other Federal agencies. Collection may be through centralized offset by the Financial Management Service (FMS) of the Department of the Treasury.

(2) Such payments include but are not limited to vendor payments, salary, retirement, lump sum payments due upon Federal employment separation, travel reimbursements, tax refunds, loans or other assistance. Offset of Federal salary payments will be in accordance with 5 U.S.C. 5514.

(3) Before administrative offset is instituted by another Federal agency or

the FMS, Peace Corps shall certify in writing to that entity that the debt is past due and legally enforceable and that Peace Corps has complied with all applicable due process and other requirements as described in this part and other Federal law and regulations.

(b) Any other method authorized by law or regulation.

### **SUBPART C—SALARY OFFSET**

#### **§ 309.12 Purpose.**

This subpart provides Peace Corps' policies and procedures for the collection by salary offset of a Federal employee's pay to satisfy certain past due debts owed the United States Government.

#### **§ 309.13 Scope.**

(a) The provisions of this section apply to collection by salary offset under 5 U.S.C. 5514 of debts owed to Peace Corps and debts owed to other Federal agencies by Peace Corps' employees. Peace Corps will make reasonable and lawful efforts to administratively collect amounts owed by employees prior to initiating salary offset action. This section does not apply to debts where collection by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances).

(b) References. The following statutes and regulations apply to Peace Corps' recovery of debts due the United States by salary offset:

(1) 5 U.S.C. 5514, as amended, governing the installment collection of debts;

(2) 31 U.S.C. 3716, governing the liquidation of debts by administrative offset;

(3) 5 CFR part 550, subpart K, setting forth the minimum requirements for executive agency regulations on salary offset; and

(4) 31 CFR parts 900 through 904, the Federal Claims Collection Standards.

(c) Nothing in this subpart precludes the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Standards.

#### **§ 309.14 Coordinating offset with another Federal agency.**

(a) When Peace Corps is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until Peace Corps provides the agency with a written certification that the debtor owes Peace Corps a debt (including the amount and basis of the debt and the due date of payment) and that Peace Corps has complied with these regulations.

(b) When another agency is owed the debt, Peace Corps may use salary offset against one of its employees who is indebted to another agency, if requested to do so by that agency. Such request must be accompanied by a certification that the person owes the debt (including the amount and basis of the debt and the due date of payment) and that the agency has complied with its regulations as required by 5 U.S.C. 5514 and 5 CFR part 550, subpart K.

**§ 309.15 Notice requirements before offset.**

(a) Deductions under the authority of 5 U.S.C. 5514 shall not be made unless the creditor agency first provides the employee with written notice that he/she owes a debt to the Federal Government at least 30 calendar days before salary offset is to be initiated. When Peace Corps is the creditor agency this notice of intent to offset an employee's salary shall be hand-delivered or sent by certified mail to the most current address that is available. The written notice will state:

(1) That Peace Corps has reviewed the records relating to the claim and has determined that a debt is owed, its origin and nature, and the amount of the debt;

(2) The intention of Peace Corps to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full;

(3) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(4) An explanation of the Peace Corps' policy concerning interest, penalties and administrative costs, including a statement that such assessments must be made unless excused in accordance with the FCCS (See § 309.5);

(5) The employee's right to inspect and copy all records of the Peace Corps pertaining to the debt claimed or to receive copies of such records if personal inspection is impractical;

(6) The right to a hearing conducted by a hearing official (an administrative law judge, or alternatively, an individual not under the supervision or control of the Peace Corps) with respect to the existence and amount of the debt claimed, or the repayment schedule, so long as a petition is filed by the employee as prescribed;

(7) If not previously provided, the opportunity (under terms agreeable to the Peace Corps) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset. The agreement must be in writing, signed by both the

employee and the creditor agency, and documented in the creditor agency's files;

(8) The name, address and telephone number of an officer or employee of the Peace Corps who may be contacted concerning procedures for requesting a hearing;

(9) The method and time period for requesting a hearing;

(10) That the timely filing of a petition for a hearing as prescribed will stay the commencement of collection proceedings;

(11) The name and address of the office to which the petition should be sent;

(12) That the Peace Corps will initiate certification procedures to implement a salary offset, as appropriate, (which may not exceed 15 percent of the employee's disposable pay) not less than 30 calendar days from the date of delivery of the notice of debt, unless the employee files a timely petition for a hearing;

(13) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the petition requesting the hearing, unless the employee requests and the hearing official grants a delay in the proceedings;

(14) That any knowingly false or frivolous statements, representations or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under the Peace Corps Act or the Foreign Service Act, Peace Corps regulations, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, §§ 3729–3731 of title 31, United States Code, or any other applicable statutory authority; and

(iii) Criminal penalties under 18 U.S.C. sections 286, 287, 1001, and 1002 or any other applicable authority;

(15) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(16) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee; and

(17) That proceedings with respect to such debt are governed by 5 U.S.C. 5514.

(b) Peace Corps is not required to provide prior notice to an employee when the following adjustments are made by Peace Corps to a Peace Corps employee's pay:

(1) Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less;

(2) A routine adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment, and, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature and the amount of the adjustment and point of contact for contesting the adjustment; or

(3) Any adjustment to collect a debt of \$50 or less, if, at the time of such adjustment, or as soon thereafter as practical, the individual is provided written notice of the nature of the amount of the adjustment and a point of contact for contesting the adjustment.

**§ 309.16 Review.**

(a) Request for outside hearing. Except as provided in paragraph (b) of this section, an employee who desires an outside hearing concerning the existence or amount of the debt or the proposed offset schedule must send a request to the office designated in the notice of intent. See § 309.15(a)(8). The request must be received by the designated office not later than 20 calendar days after the date of delivery of the notice as provided in § 309.15(a). The request must be signed by the employee and should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position. If the employee objects to the percentage of disposable pay to be deducted from each check, the request should state the objection and the reasons for it. The employee must also specify whether an oral hearing or a review of the documentary evidence is requested. If an oral hearing is desired, the request should explain why the matter cannot be resolved by review of the documentary evidence alone.

(b) Failure to submit timely.

(1) If the employee files a petition for a review after the expiration of the 20 calendar day period provided for in paragraph (a) of this section, the designated office may accept the request if the employee can show that the delay was the result of circumstances beyond his or her control, or because of a failure to receive the notice of the filing

deadline (unless the employee has actual knowledge of the filing deadline).

(2) An employee waives the right to a review, and will have his or her disposable pay offset in accordance with Peace Corps' offset schedule, if the employee fails to file a request for a hearing unless such failure is excused as provided in paragraph (b)(1) of this section.

(3) If the employee fails to appear at an oral hearing of which he or she was notified, unless the hearing official determines failure to appear was due to circumstances beyond the employee's control, his or her appeal will be decided on the basis of the documents then available to the hearing official.

(c) Representation at the hearing. The creditor agency may be represented by a representative of its choice. The employee may represent himself or herself or may be represented by an individual of his or her choice and at his or her expense.

(d) Review of Peace Corps records related to the debt.

(1) An employee who intends to inspect or copy creditor agency records related to the debt in accordance with § 309.15(a)(5) must send a letter to the official designated in the notice of intent to offset stating his or her intention. The letter must be sent within 20 calendar days after receipt of the notice.

(2) In response to a timely request submitted by the debtor, the designated official will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(3) If personal inspection is impractical, copies of such records shall be sent to the employee.

(e) Oral Hearing.

(1) If an employee timely files a request for an oral hearing under § 309.16(a), the matter will be conducted by a hearing official not under the supervision or control of Peace Corps.

(2) Procedure.

(i) After the employee requests a hearing, the hearing official shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, notice shall set forth the date, time and location of the hearing. If the hearing will be paper, the employee shall be notified that he or she should submit arguments in writing to the hearing official by a specified date after which the record shall be closed. This date shall give the employee reasonable time to submit documentation.

(ii) An employee who requests an oral hearing shall be provided an oral hearing if the hearing official determines that the matter cannot be

resolved by review of documentary evidence alone (e.g. when an issue of credibility or veracity is involved). The hearing is not an adversarial adjudication, and need not take the form of an evidentiary hearing.

(iii) If the hearing official determines that an oral hearing is not necessary, he or she will make a decision based upon a review of the available written record.

(iv) The hearing official must maintain a summary record of any hearing provided by this subpart. Witnesses who provide testimony will do so under oath or affirmation.

(3) Decision. The written decision shall include:

(i) A statement of the facts presented to support the origin, nature, and amount of the debt;

(ii) The hearing official's findings, analysis, and conclusions; and

(iii) The terms of any repayment schedules, or the date salary offset will commence, if applicable.

(4) Failure to appear. In the absence of good cause shown (e.g. excused illness), an employee who fails to appear at a hearing shall be deemed, for the purpose of this subpart, to admit the existence and amount of the debt as described in the notice of intent. The hearing official shall schedule a new hearing upon the request of the creditor agency representative when good cause is shown.

(5) A hearing official's decision is considered to be an official certification regarding the existence and amount of the debt for purposes of executing salary offset under 5 U.S.C. 5514 only. It does not supersede the finding by Peace Corps that a debt is owed and does not affect the Government's ability to recoup the debt through alternative collection methods under other appropriate methods.

#### **§ 309.17 Procedures for salary offset.**

Unless otherwise provided by statute or contract, the following procedures apply to salary offset:

(a) Method. Salary offset will be made by deduction at one or more officially established pay intervals from the current pay account of the employee without his or her consent.

(b) Source. The source of salary offset is current disposable pay.

(c) Types of collection.

(1) Lump sum payment. Ordinarily debts will be collected by salary offset in one lump sum if possible. However, if the amount of the debt exceeds 15 percent of disposable pay for an officially established pay interval, the collection by salary offset must be made in installment deductions.

(2) Installment deductions.

(i) The size of installment deductions must bear a reasonable relation to the size of the debt and the employee's ability to pay. If possible, the size of the deduction will be that necessary to liquidate the debt in no more than 1 year. However, the amount deducted for any period must not exceed 15 percent of the disposable pay from which the deduction is made, except as provided by other regulations or unless the employee has agreed in writing to greater amount.

(ii) Installment payments of less than \$25 per pay period will be accepted only in the most unusual circumstances.

(iii) Installment deductions will be made over a period of not greater than the anticipated period of employment.

#### **§ 309.18 Voluntary repayment agreements as an alternative to salary offset.**

(a) In response to a notice of intent, an employee may propose a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to repay a debt without salary offset shall submit in writing a proposed agreement to repay the debt. The proposal shall admit the existence of the debt and set forth a proposed repayment schedule. Any proposal under this paragraph must be received by the official designated in that notice within 20 calendar days after receipt of the notice of intent.

(b) When the Peace Corps is the creditor agency, in response to a timely proposal by the debtor the agency will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the agency's discretion to accept a repayment agreement instead of proceeding by offset.

(c) If the Peace Corps decides that the proposed repayment agreement is unacceptable, the employee will have 15 calendar days from the date he or she received notice of the decision to file a petition for a review.

(d) If the Peace Corps decides that the proposed repayment agreement is acceptable, the alternative arrangement must be in writing and signed by both the employee and a designated agency official.

#### **§ 309.19 Waiver.**

(a) Under certain circumstances, employees may have a statutory right to request a waiver of indebtedness. When an employee makes a request under a statutory right, further collection will be stayed pending an administrative determination on the request.

(b) Waiver of indebtedness is an equitable remedy and as such must be based on an assessment of the facts

involved in the individual case under consideration. The burden is on the employee to demonstrate that the applicable waiver standard has been met.

#### **§ 309.20 Compromise.**

Peace Corps may attempt to effect compromise in accordance with the standards set forth in the FCCS (31 CFR part 902).

#### **§ 309.21 Suspension of collection.**

Suspension of collection action shall be made in accordance with the standards set forth in the FCCS (31 CFR 903.1–903.2).

#### **§ 309.22 Termination of collection.**

Termination of collection action shall be made in accordance with the standards set forth in the FCCS (31 CFR 903.1 and 903.3–903.4).

#### **§ 309.23 Discharge.**

Once a debt has been closed out for accounting purposes and collection has been terminated, the debt is discharged. Peace Corps will report discharged debt as income to the debtor to the Internal Revenue Service per 26 U.S.C. 6050P and 26 CFR 1.6050P–1.

#### **§ 309.24 Bankruptcy.**

Peace Corps generally terminates collection activity on debts that have been discharged in bankruptcy unless otherwise provided for by bankruptcy law. The CFO will seek legal advice by the General Counsel's office if there is the belief that any claims or offset may have survived the discharge of a debtor.

Dated: February 15, 2008.

**Tyler S. Posey,**

*General Counsel.*

[FR Doc. E8–3268 Filed 2–21–08; 8:45 am]

BILLING CODE 6015–01–P

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

#### **42 CFR Part 440**

[CMS–2232–P]

RIN 0938–A048

### **Medicaid Program; State Flexibility for Medicaid Benefit Packages**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would implement provisions of section 6044 of

the Deficit Reduction Act of 2005, Pub. L. 109–171, which amends the Social Security Act by adding a new section 1937 related to the coverage of medical assistance under approved State plans. Under this new section, States have increased flexibility under an approved State plan to define the scope of covered medical assistance by offering coverage of benchmark or benchmark-equivalent benefit packages to certain Medicaid recipients.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. March 24, 2008.

**ADDRESSES:** In commenting, please refer to file code CMS–2232–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/eRulemaking>. Click on the link “Submit electronic comments on CMS regulations with an open comment period.” (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2232–P, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2232–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

*Submission of comments on paperwork requirements.* You may submit comments on this document's paperwork requirements by mailing your comments to the addresses provided at the end of the “Collection of Information Requirements” section in this document.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Donna Schmidt, (410) 786–5532.

#### **SUPPLEMENTARY INFORMATION:**

*Submitting Comments:* We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–2232–P and the specific “issue identifier” that precedes the section on which you choose to comment.

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.cms.hhs.gov/eRulemaking>. Click on the link “Electronic Comments on CMS Regulations” on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

#### **I. Background**

Under title XIX of the Social Security Act (the Act), the Secretary is