

Veterans' Benefits Program
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April 20, 2022

Department of Veterans Affairs
Debt Management Center
P.O. Box 11930
St. Paul, MN 55111-0930

RE: Debt Waiver Request
FILE NUMBER: [REDACTED]

To Whom It May Concern:

[REDACTED], through the undersigned representative, submits the following debt waiver request due to the extenuating circumstances discussed below and supported by the documentation attached to this letter. [REDACTED] overpayment did not involve any indication of fraud or misrepresentation of material fact, and collection would be against equity and good conscience.

Thank you in advance for your assistance and expedited processing of this request. If there are any questions or further information is needed, please contact me at [REDACTED].

Respectfully Submitted,

[REDACTED]

Statement in Support of a Debt Waiver

Mrs. [REDACTED] requests review and waiver of the \$85,464.00 debt created by the overpayment of survivor's benefits terminated by the VA in August of 2021. [REDACTED] overpayment debt should be waived because: (1) [REDACTED] did not contribute to the creation of the debt; (2) Fraud or bad faith was not a factor in the overpayment; and (3) Collection would deprive her of basic necessities thus creating a hardship.

[REDACTED] did not contribute to the creation of the debt. You can see by the attached correspondence with the VA, [REDACTED] attempted to comply with the VA's requests for information and documents; she sought out help through various VSOs; and has been open and honest throughout this process. As soon as the overpayment was identified and brought to the attention of [REDACTED], she has done everything in her power to rectify the problem, not contribute to it.

[REDACTED] was born in Guadalajara, Mexico and English is her second language.¹ [REDACTED] depends on others to translate and interpret the letters she receives from the VA. A misunderstanding of the applicability of a VA letter concerning her son led to the overpayment by the VA and the failure to recognize

¹ Birth Certificate of [REDACTED], CONST. COUNCIL OF GUADALAJARA (Aug. 26, 1951).

the overpayment by [REDACTED]. This misunderstanding was one of circumstance not one that resulted from fraud or bad faith.

[REDACTED] is [REDACTED] son and the stepson of the veteran. In 2010 he was found by the VA to be permanently incapable of self-support and proposed a finding of incompetency based on [REDACTED]'s various disabilities which increased [REDACTED] death pension benefits.² In 2017, [REDACTED] requested a VA benefits letter in response to a request by the Social Security Administration. The VA's response to that request is what led to the overpayment.

In April of 2017, [REDACTED] and his mother received a letter from the VA stating he was not receiving VA monetary benefits; the money [REDACTED] received was "for her and her alone," and the letter ended with "[t]o be clear, Mr. [REDACTED] could not be entitled to 'ANY' monies from the Department of Veteran Affairs because he is not a veteran nor is he the son of the deceased veteran."³ [REDACTED] and [REDACTED] understood this to mean that [REDACTED] death benefits no longer included the Helpless Child Dependent entitlement awarded to [REDACTED] for [REDACTED] on April 21, 2009.⁴

² Award Letter [REDACTED], File # [REDACTED], DEP'T OF VET. AFF. (Feb. 24, 2010).

³ Response Letter [REDACTED], File # [REDACTED], DEP'T OF VET. AFF. (Apr. 27, 2017).

⁴ Award Letter [REDACTED], File # [REDACTED], DEP'T OF VET. AFF. (Feb. 24, 2010).

In July of 2017, [REDACTED] was awarded Social Security benefits due to his disabilities. [REDACTED] did not report [REDACTED]'s income to the VA because of her understanding of the VA's previous letter. This point was not clarified by the VA in January of 2020 in another response to a request for a statement of benefits which contained the exact same language as the July 2017 language.⁵ There was no fraud or misrepresentation on the part of [REDACTED] or [REDACTED], simply a misunderstanding brought on by barriers to communication.

A hardship exists when annual expenses necessary for reasonable family maintenance exceed the sum of countable annual income. 38 C.F.R. §3.23(d)(6); *McDaniel-May v. Principi*, 18 Vet.App. 412 (2003). [REDACTED] and her son's current annual combined available income is \$11,761.71. [REDACTED] pays, \$8,400 annually (\$700 a month) in rent;⁶ \$1,149.60 annually for electricity;⁷ and according to the U.S. Dept. of Agriculture, should be spending a minimum of \$5,805.60 annually or less than \$8 per person a day on food.⁸ In short, for [REDACTED] to simply provide food and shelter for herself and son, she requires \$1,279.60 a month. That monthly required amount does not include expenses related to medical co-pays, medication, and travel costs.

⁵ *Id.*; Response Letter [REDACTED], File # [REDACTED], Dep't of Vet. Aff. (Jan. 17, 2020)

⁶ Residential Lease Agreement between [REDACTED] (Jan. 1, 2018).

⁷ CPS Energy, Customer Account Billing History (Oct. 5, 2021) (amount represents the average monthly payment expressed in an annual amount).

⁸ USDA, Official USDA Food Plans: Cost of Food at Home at Three Levels, U.S. Average, September 2021 (Oct. 2021).

██████████ and ██████████'s expenses are substantially increased by their medical needs. ██████████ has numerous disabling conditions which require medication and constant care. ██████████ is a ██████████ which requires medication and monitoring to ensure the ██████████. Additionally, ██████████ has numerous other age-related ailments which require medication and medical care. All of these factors support waiving the debt due to the type of hardship the waiver statute seeks to avoid.

██████████ debt should be forgiven as: (1) She did not contribute to debt, she consistently attempted to follow the VAs instructions and requests; (2) A misunderstanding led to the overpayment, not fraud or bad faith; and (3) Collection of the \$85,464.00 debt would cause a catastrophic hardship on this family that would result in her losing the ability to provide basic human need for herself and the family that depends on her.

Respectfully Submitted,

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