

19873 Mr. Dunn



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

In Reply
Refer to: B-204265(HID)

October 19, 1981

Mr. Carl H. Imlay
General Counsel
Administrative Office of the
United States Courts
Washington, D.C. 20544

Dear Mr. Imlay:

We refer to your letter dated July 28, 1981, with enclosure, concerning overpayments of pay to Mrs. Cecelia Stroman, an employee of your Office, caused by failure to withhold from her salary an amount for health insurance premiums as required under 5 U.S.C. § 8906(d)(1976) pursuant to her election to participate in the Federal Employee Health Benefits Program. You have asked whether there is any authority to waive the collection of the overpayments.

Under section 5584(a) of title 5, United States Code, a claim of the United States against a person arising out of an erroneous payment of pay to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived by the Comptroller General or by the head of an agency under the conditions established therein. However, the above law and implementing regulations are not applicable to employees of the Administrative Office of the U. S. Courts (AO). 5 U.S.C. § 5584(g); 4 C.F.R. § 91.3(c) (1981). Therefore, we do not have authority to authorize waiver of the debt in question.

You also have asked whether the overpayments of pay to Mrs. Stroman may be waivable on similar grounds by the Director of the Administrative Office. You suggest that the full power to waive collection of unpaid health insurance premiums for employees of the AO may still reside in the Director of the AO, if 5 U.S.C. § 5584 (1976) is not applicable.

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You sent us a copy of a letter dated November 24, 1980, from the Office of Personnel Management (OPM) to you on this matter. OPM advised you that it had no authority to waive or grant exceptions to the requirements of law that premiums be paid by covered employees. OPM further advised you that it had no objections to the waiving of collection of back premiums. It added that the employing agency remains obligated to pay to the Federal Employees Health Benefits Fund the full amount of premiums and related agency contributions.

As pointed out above, the waiver statute does not apply to AO employees. We know of no other authority to waive the debt. There is for consideration by analogy, however, the Federal Claims Collection Standards, 4 C.F.R. Parts 101-105. The Federal Claims Collection Act, 31 U.S.C. §§ 951 et seq., applies only to agencies in the executive and legislative branches. However, the Federal Claims Collection Standards implementing the Act state that the standards set forth therein should be followed in the disposition of civil claims by the Federal Government (other than by waiver pursuant to statutory authority) under other statutes or regulations which do not establish standards on such matters. 4 C.F.R. § 101.4.

Although Mrs. Stroman's indebtedness is not covered by the waiver statute, it appears that the Administrative Office could consider the provisions of the Federal Claims Collection Standards which set forth the conditions under which debts to the United States may be compromised, suspended, or terminated depending upon the particular circumstances involved. See B-175499, April 21, 1972, copy enclosed.

We hope this information is of assistance to you.

Sincerely yours,

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel

Enclosure