

DECISION

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**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-203344

DATE: August 3, 1981

MATTER OF: Nancy E. Howell - Refund of Life
Insurance Premiums

- DIGEST:**
1. Employee who was adjusted to intermittent employment effective August 25, 1968, and who, therefore, became ineligible for Federal Employees' Group Life Insurance under 5 C.F.R. § 870.202(a)(3) is entitled to reimbursement of premiums erroneously deducted from her pay after that date, subject to the 6 year limitation on claims in 31 U.S.C. § 71a.
 2. Life insurance premiums were erroneously deducted from employee's pay from August 1968 until May 1981. Employee claims refund of premiums for entire period. Her claim was received in the General Accounting Office on June 5, 1981. Under 31 U.S.C. § 71a, a claim bearing the signature and address of the claimant must be received in GAO to stop the running of the 6 year statutory limitation on the filing of claims against the United States. The earlier filing of a claim with the employing agency does not stop the running of the statute. Consequently, the refund claim is barred for the period before June 5, 1975.
 3. Employee, whose pay was reduced from 1968 until 1981 by erroneous deduction of life insurance premiums, seeks a refund with accumulated interest for entire period. It is well settled that interest may be assessed against the Government only under express statutory or contractual authority. Fitzgerald v. Staats, 578 F.2d 435 (D.C. Cir. 1978). The Federal Group Life Insurance Act of 1954, as amended, 5 U.S.C. §§ 8701-8716, provides no express statutory authority

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by which an employee may receive interest on insurance premiums. Claim for interest is denied.

The United States Geological Survey (USGS), has requested a decision regarding an employee's entitlement to a refund of life insurance premiums for a 12-1/2 year period.

By letter dated May 14, 1981, the Chief, Branch of Financial Management, USGS, informed us that, effective August 25, 1968, Nancy E. Howell became ineligible for life insurance coverage because of a change in her employment status from a full-time employee to an intermittent employee. Her pay deductions for life insurance premiums, however, were not terminated at the time of this employment adjustment.

The question raised is whether Ms. Howell is entitled to reimbursement for premiums erroneously deducted from her salary for the full period from 1968 to March 27, 1981. No written claim bearing Ms. Howell's signature accompanied the May 14 letter. We advised the USGS of the omission and a written claim signed by Ms. Howell was received in the General Accounting Office on June 5, 1981. In her claim, Ms. Howell states that she has been assured by the Eastern Mapping Center Personnel Office, USGS, that she will be reimbursed for the total amount of premiums paid, along with accumulated interest on that amount for the full period.

Under the Federal Group Life Insurance Act of 1954, as amended, 5 U.S.C. §§ 8701-8716, the Office of Personnel Management (OPM) may issue regulations which prescribe the time at which and the conditions under which an employee is eligible for coverage. 5 U.S.C. § 8716(b). These regulations are found at 5 C.F.R. Part 870, Federal Personnel Manual (FPM) Chapter 870, and FPM Supplement 870-1.

5 C.F.R. 870.202(a)(3) (1980) specifically excludes intermittent employees from life insurance coverage and defines an intermittent employee as a non-full-time employee without a pre-arranged regular tour of duty, with an exception not pertinent here. Thus, the USGS statement that Ms. Howell became ineligible for life insurance when she changed to intermittent status appears to be correct.

This Office has held that where an individual is ineligible for life insurance coverage and, therefore, could not receive

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any insurance benefits notwithstanding that premiums were erroneously deducted, that individual is entitled to a reimbursement of premiums paid for that portion of her claim which is not barred by 31 U.S.C. § 71a. Refund of Life Insurance Premiums, B-198115, October 21, 1980; Nina R. Mathews, B-199299, October 22, 1980.

Section 71a of title 31, United States Code, requires that all claims cognizable by the General Accounting Office (GAO), be received in this Office within 6 years after the date such claim first accrued or be forever barred. The date of accrual of a pay claim for the purpose of the above-cited statute is the date the services were rendered and such claims accrue upon a daily basis. 29 Comp. Gen. 517 (1950). Therefore, it follows that the date of accrual of the present claim is the date on which insurance premiums were first erroneously deducted from Ms. Howell's salary and that her claim continued to accrue on a daily basis as further premiums were deducted. Donald B. Sylvain, B-190851, February 15, 1978.

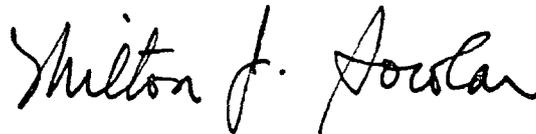
It is well settled that 31 U.S.C. § 71a makes it a condition precedent to the right to have claims considered by the General Accounting Office that such claims be received in this Office in writing and over the signature of the claimant within 6 years from the date on which the claim accrued. Sergeant Donald G. Leska, B-187084, October 22, 1976; Joan Shapira; B-188023, July 1, 1977. We are without authority to waive or modify any provisions of this Act and we consistently have held that filing a claim with the administrative office does not satisfy its requirements. John B. Moore, B-187427, June 3, 1977.

Thus, with regard to the present case, only that portion of Ms. Howell's claim which accrued within 6 years prior to the date on which this Office first received a claim in writing and signed by Ms. Howell can be considered. Since her claim was received June 5, 1981, that portion of the claim which accrued between August 25, 1968, through June 4, 1975, is barred under 31 U.S.C. § 71a.

Finally we turn to the question regarding Ms. Howell's entitlement to interest on premiums paid after June 5, 1975. It is well established that interest may be assessed against the Government only under express statutory or contractual authorization. Fitzgerald v. Staats, 578 F.2d 435 (D.C. Cir. 1978); Gene A. Albarado, B-191921, October 4, 1978, 58 Comp.

Gen. 5. The Federal Group Life Insurance Act of 1954, as amended, 5 U.S.C. §§ 8701-8716, does not provide an express authorization of interest against the Government. In the absence of an express provision in 5 U.S.C. §§ 8701-8716, there is no basis to award Ms. Howell interest on the amount to be refunded to her.

It is unfortunate that Ms. Howell was erroneously advised by an official of the Eastern Mapping Center Personnel Office that she would be entitled to reimbursement with interest for the entire 12-1/2 year period in which premiums were deducted, but the Government cannot be bound by unauthorized statements of its agents or employees. Elton L. Smalley, B-181311, August 21, 1974; Judson W. Hand, B-190981, April 6, 1978. Thus, Ms. Howell is entitled only to reimbursement for erroneous premiums deducted on or after June 5, 1975.

A handwritten signature in cursive script that reads "Milton J. Fowler".

Acting Comptroller General
of the United States