

DOCUMENT RESUME

02303 - [A1592578]

[Waiver of Overpayment of Compensation]. B-188822, June 1, 1977.
3 pp.

Decision re: Roosevelt W. Royals; by Robert F. Keller, Deputy
Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation
(305).

Contact: Office of the General Counsel: Civilian Personnel.
Budget Function: General Government: Central Personnel
Management (805).

Organization Concerned: Department of the Army: Corps of
Engineers.

Authority: 5 U.S.C. 5584. B-187636 (1977). B-184480 (1976).
B-187240 (1976). B-176546 (1972). B-165663 (1969).

Although employee was enrolled in high option health
benefits plan, payroll deductions were made at the low option
rate, resulting in overpayment of compensation. In view of
employee's fault for failing to verify correctness of
compensation as indicated on earnings statements he received
from employer, his request for waiver of debt was denied.
(Author/DJM)

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DECISION



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

*Civ. Per
Haubert*

FILE: B-188822

DATE: June 1, 1977

MATTER OF: Roosevelt W. Royals - waiver of overpayment

DIGEST: Although employee enrolled in high option health benefits plan, payroll deductions were made at low option rate, resulting in overpayment of compensation. Request for waiver of debt is denied in view of employee's fault for failing to verify correctness of compensation as indicated on earnings statements furnished to him by employing agency.

This action concerns the appeal by Mr. Roosevelt W. Royals of the denial by our Claims Division of his application for waiver of the claim of the United States against him for an overpayment of compensation in the amount of \$1,373.10. The overpayment resulted from insufficient payroll deductions for a health plan in which Mr. Royals participated as an employee of the Department of the Army. Mr. Royals had requested waiver of the claim under the provisions of 5 U.S.C. § 5584.

The record indicates that at all times relevant to this action, Mr. Royals was employed by the Department of the Army, Corps of Engineers, and was enrolled in the Federal Employee Health Benefits Plan. Prior to January 1970, he participated in the Service Benefit Plan, low option (enrollment code 105). Effective January 4, 1970, Mr. Royals changed his enrollment to the high option of the Service Benefit Plan (enrollment code 102). This action should have resulted in an immediate increase in the amount of \$8.29 in payroll deductions for health benefits. Due to an administrative error, however, the payroll deduction for health benefits remained at the lower rate for the low option Service Benefit Plan from January 4, 1970, through April 19, 1975, when the error was detected. The overpayment during that period totaled \$1,373.10.

Mr. Royals' request for waiver of the overpayment was forwarded to our Claims Division by the Engineer Comptroller, who recommended that the application be denied. In a letter dated September 13, 1976, DW-Z-2613080-083, the Claims Division

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disallowed Mr. Royals' request on the grounds that Mr. Royals was at fault in the inception and perpetuation of the overpayment. This conclusion was based on the fact that although Mr. Royals received leave and earnings statements throughout the period of erroneous payments, he failed to notice and report the insufficient deduction for health benefits. In appealing the Claims Division determination, Mr. Royals contends that he is being unfairly treated and is being required to "pay for somebody else's mistake."

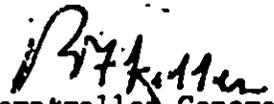
The statutory authority for our consideration of this request for waiver is found at 5 U.S.C. § 5584, which permits the waiver of a claim of the United States arising out of an erroneous payment of pay and allowances. Under the express terms of the statute, waiver may not be made if there exists, in connection with the claim, an indication of fault or lack of good faith on the part of the employee or any other person having an interest in obtaining the waiver. Therefore, if it is determined that, under the circumstances, a reasonable man would have made inquiry as to the correctness of payment, but the employee did not, then the employee is not free from fault, and the claim against him may not be waived. Matter of Jack M. Bernstein, B-187636, March 2, 1977.

Generally, where an employee has records which, if reviewed, would indicate an overpayment, and the employee fails to review such documents for accuracy or otherwise fails to take corrective action, he is not without fault and waiver will be denied. Matter of Arthur Weiner, B-184480, May 20, 1976. This rule is particularly relevant in the case of earnings and leave statements. As we stated in Weiner, we cannot stress too highly the importance of a careful review by each employee of the pay data provided by the employing agency. Such review, and reporting of discrepancies for remedial action, is an essential function in the Government's attempt to reduce payroll errors. Thus, our Office has long held that a waiver of indebtedness will not be granted where it appears that the employee did not verify the information provided on his payroll change slips or leave and earnings statements. Matter of Fred P. McCleskey, B-187240, November 11, 1976; B-176546, September 8, 1972; B-165663, January 30, 1969.

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In the present case the record indicates that Mr. Royals has admitted that he verified the overtime and leave balance on his earnings statements but did not check his health benefits deductions. However, he believes that it is inequitable for him to be required to pay the amounts which, due to administrative error, were erroneously not deducted from his salary. We note at the outset that Mr. Royals obtained health service benefits at the high option level on several occasions during the period in question. Further, we do not suggest that the administrative error is transferred to the employee, but rather we find that an employee is not without fault when he has been provided the means to verify the correctness of his paychecks and has failed to do so. The employee has the responsibility of verifying the correctness of the payment he receives and, where a reasonable man would have made inquiry but the employee did not, then he is not free from fault, and the claim may not be waived.

Accordingly, we sustain the action of our Claims Division in denying Mr. Royals' request for waiver.


Deputy Comptroller General
of the United States