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DECISION



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

FILE: B-202795

DATE: December 1, 1981

MATTER OF: George M. Dold - Waiver of Health  
Insurance Premiums

DIGEST: Employee requesting waiver of underdeducted health insurance premiums states that when he changed his health insurance plan he was being transferred and several payroll changes occurred at same time. Although employee brought error to agency's attention approximately eight years later and although he claims he did not receive information on premium rates or health insurance plan brochures since it was not open season, waiver is denied. Employee should have known of error when his leave and earnings statements did not reflect change in deductions or change to new health plan Code Number. Moreover employee should have been aware of premium rates during subsequent open seasons. Additionally, he, in fact, received the benefits of the more costly health plan.

This decision is in response to an appeal of our Claims Group's denial of a request for waiver from Mr. George M. Dold, an employee of the National Institute of Health, Department of Health and Human Services. Mr. Dold believes he is entitled to waiver of an overpayment made to him because the overpayment was due to an administrative error and Mr. Dold brought the error to the attention of his agency. For the reasons which follow we hold that Mr. Dold is not entitled to waiver.

#### BACKGROUND

Effective June 5, 1970, Mr. Dold was transferred from San Juan, Puerto Rico, to Bethesda, Maryland. At that time Mr. Dold executed SF 2809 "Health Benefits Registration Form", to change his health plan from Code

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892 to Code 102 (high option), effective June 28, 1970. The change in coverage, however, was never reflected in Mr. Dold's leave and earnings statements and they continued to show that he was covered under the Code 892 health plan. Likewise, the higher deductions required under the Code 102 health plan were never made from Mr. Dold's salary and Mr. Dold's leave and earnings statements reflected that fact. Mr. Dold, however, was covered under the Code 102 health plan and received benefits under that plan. The failure to deduct the proper insurance premium was evidently due to administrative error.

Mr. Dold states that he did not notice the error until he compared his leave and earnings statement with that of another employee in late 1978, whereupon he reported the discrepancy on December 12, 1978. Subsequently Mr. Dold was found to be indebted to the Government in the amount of \$1,640.70 reflecting the underdeduction of premiums or the overpayment of salary which he received due to the administrative error. The record indicates that he has repaid at least \$1,148.44 of the owed amount.

Our Claims Group denied Mr. Dold's request for waiver because when Mr. Dold increased his benefit coverage he should have expected that premium deductions would increase.

Mr. Dold appeals the denial of waiver by stating that he acted in good faith when he reported the error as soon as he became aware of it and by arguing that it was difficult, if not impossible, for him to determine whether the deductions were accurate. He states that since he changed his insurance plan in the off season he was not given any brochures or information on the amount of deductions which would be made for the new plan. Moreover, he states that several payroll changes were made at the time of his transfer, including changes in his federal and state tax deductions and the discontinuance of his cost of living allowance. Mr. Dole argues, therefore, that since he had no information as to what the new premiums would

be, and since it was an administrative error which caused the underdeduction in the first place, we should waive the overpayment. Mr. Dold also points out that our Claims Group erred when it stated that his health benefits deduction was clearly shown as \$4.10 on his leave and earnings statement.

OPINION

The statutory authority for our consideration of Mr. Dold's request for waiver is found at 5 U.S.C. § 5584 (1976), 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 granted 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. We have held that if it is determined, under the circumstances, that a reasonable man would have made inquiry as to the correctness of a payment, but the employee did not, then the employee is not free from fault and the claim against him may not be waived. Arthur Weiner, B-184480, May 20, 1976.

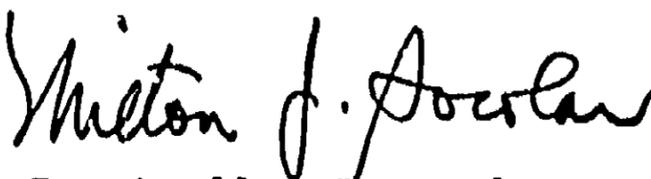
Generally, where an employee has records which, if reviewed, would indicate an overpayment, and the employee fails to review such documents for accuracy or otherwise fails to take corrective action, he is not without fault and waiver will be denied. Weiner, supra. This rule is particularly relevant in 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. We have held that although an employee's agency has a responsibility to ensure that its payroll is correct, the employee also has the responsibility to verify the correctness of the payments he receives. Roosevelt W. Royals, B-188822, June 1, 1977. 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. Royals, supra; Fred P. McCleskey, E-187240, November 11, 1976; B-176546, September 8, 1972; B-165663, January 30, 1969.

Mr. Dold is correct that his leave and earnings statement did not show a \$4.10 deduction for health insurance, and our Claims Group made a factual error in this regard. This error, however, is immaterial to our decision to sustain our Claims Group's denial of waiver in Mr. Dold's case, as the fact remains that his health insurance premium deductions were much less than they should have been.

Mr. Dold should have known that when he changed his health plan that his premium deductions would change. The fact that his old health plan code and the identical deductions were still appearing on his leave and earnings statements should have alerted him that something was wrong. That Mr. Dold did not change his health plan during open season and did not then receive brochures and rates for the health plan does not relieve him from his duty of knowing what his deductions should have been. Certainly, during each subsequent annual open season for the next eight years Mr. Dold should have learned what the true cost of his health insurance plan was.

In view of the above and since Mr. Dold received the benefits of the more costly insurance, we sustain our Claims Group's denial of waiver of the overpayments made to him.

*for*   
Comptroller General  
of the United States