

DEPARTMENT OF THE UNITED STATES
WASHINGTON, D.C. 20540

December 28, 1973

Mrs. Rose Kurice
Route 16, Box 243
Baltimore, Maryland 21220

Dear Mrs. Kurice:

Reference is made to your letter of October 30, 1973, to Congressman Clarence D. Long, concerning the action of the Transportation and Claims Division of this Office of August 28, 1973, by which a waiver of erroneous overpayments of compensation to you totaling \$517.50 was denied. That letter which was forwarded for our consideration will be treated as a request for reconsideration of the previous action.

The record indicates that as an employee of the United States Coast Guard you submitted on February 14, 1968, Standard Form 176-T electing optional life insurance coverage and authorizing payroll deductions to be made from your salary for the cost of this insurance. On October 6, 1970, you reached the age of 55, and the bi-weekly payroll deductions for the cost of the optional life insurance should have been increased from \$5.50 to \$17, effective January 10, 1971. However, due to an administrative error the deduction was not increased and this error was not discovered until October 10, 1972, which resulted in the overpayments of compensation totaling \$517.50. When you were notified of the overpayments, you immediately cancelled the optional life insurance coverage.

The Coast Guard has recommended that the claim of the United States resulting from the overpayments be waived under the provisions of 5 U.S.C. 5584. In this regard they report that the overpayments resulted from an administrative error and that there is no indication of fraud, fault, misrepresentation, or lack of good faith on your part or of any other person having an interest in obtaining waiver of the claim. They also report that you state that you were not aware that you were being overpaid.

Our settlement of August 28, 1973, noted that Standard Form 176-T, January 1968, cautions the employee to read the back of the "Duplicate" which specifically states that the cost of the optional life insurance would increase when the employee reaches age 55. The basis for denying waiver of the Government's

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claim was that you were at least partially at fault for the overpayments because as a reasonable and prudent employee you should have known that the cost of the optional life insurance would increase substantially upon attaining age 55 and that you were duty bound to report the underdeduction.

In the present case there is no specific indication of fault or lack of good faith on your part nor would there be in this type of situation a personnel action, fluctuation of salary, or other significant event of the type which should have alerted you to the overpayments. Our previous denial, imputing at least partial fault on your part, was based on a determination that you had at least constructive knowledge of the overpayments because you should have known the contents of the forms you signed and thus been familiar with the benefits and costs of the coverage. However, since you signed this form almost 3 years before the effective date of the cost increase and since there is no indication that you have special knowledge of personnel laws or were working in a position in which such knowledge was required, we do not believe that fault should be imputed to you in the circumstances of the present case.

In view of the foregoing, the overpayments totaling \$517.50 are hereby waived under the authority of 5 U.S.C. 5584.

Sincerely yours,

R. F. Koller

Deputy } Comptroller General
of the United States