

Easterwood



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Juanita E. LaGuerre

File: B-238374

Date: June 13, 1990

DECISION

Ms. Juanita E. LaGuerre has appealed the determination of our Claims Group not to waive under 5 U.S.C. § 5584 her debt for the nonpayment of health insurance premiums during the period of October 1987 to December 1988.^{1/} When Ms. LaGuerre transferred to the Office of Personnel Management (OPM), the deductions that were being made from her compensation by the Department of Justice for her health insurance were discontinued by OPM due to an administrative error. The Claims Group found that Ms. LaGuerre knew or should have known that she received pay to which she was not entitled and had a duty to retain it for subsequent refund to the government. Ms. LaGuerre appeals on the basis that she had no actual knowledge that her health benefits were not being deducted.

The Claims Group correctly applied our established rule that where an employee has records which, if reviewed, would indicate an overpayment of compensation, and the employee fails to review such records for accuracy or otherwise fails to take corrective action, he or she is partially at fault, and waiver will not be granted. Sheldon H. Avenius, Jr., B-226465, Mar. 23, 1988, and cases cited. In similar situations where an administrative error resulted in no deductions for health or life insurance benefits or for FICA taxes being made from compensation, where deductions had been made before, and this is reflected on the employee's leave and earnings statements, we have held the employee partially at fault in not recognizing that no deductions were being made and denied applications for waiver. See Michael J. Smith, 67 Comp. Gen. 610 (1988); Malcolm C. McCormack, B-233047, Feb. 22, 1989.

^{1/} Settlement Certificate Z-2901643-050, Sept. 13, 1989.

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In this case, Ms. LaGuerre's leave and earnings slips from the Department of Justice showed deductions being made for health benefits. After the transfer to OPM, her leave and earnings statements showed no deductions being made for health benefits. Since Ms. LaGuerre must be considered partially at fault in not recognizing that the health insurance deductions were not being made, the Claims Group's denial of her request for waiver is affirmed.



James F. Hinchman
General Counsel