

Matter of: John H. Young, Jr.
File: B-253640
Date: November 4, 1993

DIGEST

1. An employee transferred from one agency to another. Although his health benefits coverage was also transferred, the gaining agency failed to deduct premiums for that coverage for approximately 11 months. Had the employee examined his earnings and leave statements issued by the gaining agency, he would have discovered the error. Since he failed to examine those documents, he must be considered partially at fault, thereby precluding waiver under 5 U.S.C. § 5584(b) (1988).

2. An employee seeks to compromise the amount of the required repayment of a debt because he was only found to be partially at fault. Where there is a present or prospective ability by an employee to pay a debt which is not waived, such as continued employment, recovery of the entire debt is to be pursued. James A. Schultz, 59 Comp. Gen. 28 (1979).

DECISION

This decision is in response to a request from Mr. John H. Young, Jr., appealing our Claims Group's settlement Z-2917439, Feb. 11, 1993, which denied waiver of his debt to the United States in the amount of \$4,194.48. We sustain our Claims Group's action for the following reasons.

Mr. Young, while employed with the Department of the Interior, was enrolled in the Blue Cross-Blue Shield Health Benefits Insurance Plan, for high option self and family coverage. The proper deductions were being made from his bi-weekly salary for that coverage. On February 12, 1989, Mr. Young transferred to the Forest Service, Department of Agriculture. His enrollment in the health insurance program also was transferred to the Forest Service. However, due to administrative error, the Forest Service did not deduct health insurance premiums from his bi-weekly salary. When the error was discovered, it was determined that the failure to deduct those premiums had resulted in an overpayment of salary in the amount of \$4,194.48 through January 13, 1990.

In response to Mr. Young's request for waiver, our Claims Group determined that his earnings and leave statements during the period showed that no deductions were being made for his health insurance coverage and concluded that he had a duty to examine those documents and report any errors. Since he failed to examine the documents, he was deemed partially at fault, thereby precluding waiver under 5 U.S.C. § 5584 (1988).

In his appeal, Mr. Young contends that his earnings and leave statements issued by the Forest Service have been replete with so many errors that he could not keep track of them all and had no idea that the Forest Service was not deducting the premium for health benefits. In the alternative, he argues that if he must be considered partially at fault, he is willing to pay \$2,000 in compromise of the debt.

Our Claims Group correctly applied our established rule that where an employee receives documents which, if reviewed, would indicate an overpayment of compensation, and the employee fails to review those records for accuracy or otherwise fails to take corrective action, he or she is deemed to be partially at fault, thereby precluding waiver. Sheldon H. Avenius, Jr., B-226465, Mar. 23, 1988, and decisions cited. In situations where payroll deductions for health and life insurance previously have been made, but, due to an administrative error, deductions are no longer being made and this is reflected on the employee's earnings and leave statements, we have held that the employee is partially at fault for failing to examine the statements and report that deductions were not being made, thus permitting the error to continue. Michael J. Smith, 67 Comp. Gen. 610 (1988). See also Ann D. Bolton, B-242854, June 5, 1991. Cf. John J. Williams, B-251667, Apr. 2, 1993.

In the present case, deductions for health benefits had been made from Mr. Young's pay before his transfer, but his earnings and leave statements after his transfer showed no deductions for health benefits. Thus, Mr. Young is deemed to be partially at fault in the matter and the Claims Group's denial of waiver is affirmed.

With regard to Mr. Young's suggested compromise, we have held that where there is a present or prospective ability to pay a debt which is not waived, such as an employee's continued employment, recovery of the entire debt is to be pursued. James A. Schultz, 59 Comp. Gen. 28 (1979), and decisions cited. In any event, compromise would be inappropriate here. Mr. Young's health care coverage remained in effect throughout the period in question, and he made claims

which were paid by the insurance company. Therefore, we do not believe it is against equity and good conscience to require him to pay his share of the premium for the coverage he received. Raymond W. S. Lau, B-203458, Sept. 29, 1981.

James F. Hinchman
General Counsel