DECISION

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

FILE: B-184574

DATE: JUL 1 1976

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MATTER OF: Bernard Popick - Appeal from agency denial of waiver

DIGEST: Agency denied employee's request for waiver of $240 overpayment due to erroneous underdeduction for optional life insurance since agency furnished earning statement with each paycheck and thus employee should have known of the underdeduction. Agency determination affirmed in absence of showing that it is contrary to the statute or implementing standards for waiver, or that it is arbitrary or capricious.

Mr. Bernard Popick, a former employee of the Department of Health, Education, and Welfare, seeks reconsideration of the refusal of our Transportation and Claims Division (now Claims Division) to reverse the agency denial of his request for waiver of a claim of the United States against him in the amount of $240 arising out of erroneous payment of pay.

The agency states that Mr. Popick elected to have premiums deducted for both regular and optional life insurance. Through administrative error no deductions were made for optional life insurance coverage for 40 pay periods in the amount of $6 a pay period. The employee received an "Earnings and Leave Statement" for each pay period which showed the under deduction for insurance. The agency states that in signing up for the optional insurance, each employee is advised of the increase in cost and accordingly should have noted the incorrect premium deductions on his earnings and leave statements. Accordingly, the agency denied Mr. Popick's request to waive the overpayment.

The General Accounting Office will consider appeals from employees of an agency's action on their requests for waiver under Public Law 90-616, 5 U.S.C. § 5584. Our Office has adopted the policy, however, of not reversing an agency's determination under such law except to the extent that the agency action is contrary to the statute or the implementing Standards for Waiver, as interpreted by our Office, or unless the agency's action is found to be arbitrary or capricious.

In the instant case, the record indicates that Mr. Popick's earning and leave statement for the pay period ending July 13, 1968, showed a deduction of $13.43 for FEGLI (Federal Employee's Life Insurance), the correct amount of the regular and optional premiums. Mr. Popick's payroll change slip for the pay period ending July 27, 1968, which showed a substantial statutory pay increase, showed the deduction for FEGLI as $8.25, or $6 less than the correct amount. Neither of the above-cited forms showed a breakdown between the regular and optional insurance premiums. The error in premium deductions was not discovered until January 1970, when Mr. Popick inquired whether he was still covered by optional insurance since the agency's revised earnings and leave statement for the pay periods ending January 10 and 24, 1970, which contained a block captioned "OPT. FEGLI," showed no deduction.

As noted above the agency has refused to waive the overpayment which resulted from the error. Mr. Popick requests our reconsideration of the waiver refusal on that the ground that it was unreasonable to require him to compare all items of pay and deduction on the two pay documents. He states that the pay documents in question contained no breakdown between the premiums for regular and optional insurance and that the increase in his pay was explained by the fact that there was a substantial statutory pay increase.

In B-176546, September 8, 1972, a case involving a request for waiver of overpayments of pay to an employee who had undergone a wage reduction, we considered the effect of an employee's failure to thoroughly examine leave and earning statements. In that case the agency had erroneously failed to deduct the employee's share of health insurance premiums. The employee appealed the denial of the waiver on the ground that he was not aware of the overpayments since he had received a substantial pay decrease and had not been apprised of his responsibility to review the biweekly leave and earnings statements given to him at that time. In pertinent part we stated the following:

> "In B-165663, January 30, 1969; B-173854, September 17, 1971; B-173977, September 14, 1971, and B-172117, May 12, 1971***we ruled that a waiver

> of indebtedness to the Government would not be granted when the record indicated that the employee did not verify the entries on his weekly leave and earnings statements. In so holding we indicated that the subject statements are furnished for the express purpose of permitting an employee to verify the deductions being made from his salary and the failure to do so constitutes fault on the part of the employee. The above decisions are for application to Mr. Devern's case regardless of the fact that his agency did not specifically advise him to review his biweekly statements."

In the instant case Mr. Popick received earning statements for the immediate period prior to the statutory pay increase and for the period first reflecting such increase. Mr. Popick received a substantial pay increase which would automatically increase the amount of his FEGLI and the premium thereon. On the earning statement for the pay period ending July 13, 1968, the deduction for FEGLI was shown as $13.43. The payroll change slip for the pay period ending July 27, 1968, shows the deduction as $8.25. A cursory comparison of the two earning statements would have shown Mr. Popick that an error had occurred since the amount of deduction was decreased instead of being automatically increased as a result of the substantial statutory increase.

Mr. Popick believes that it is unreasonable to require an employee to make a detailed comparison of earning statements when he receives a substantial increase since the pay change is sufficient to account for his larger paycheck. We disagree since it is only through a detailed examination that an employee may determine whether he is receiving the proper amount of take-home pay.

We recognize that an employee's agency has a responsibility to prepare proper payrolls. It also has a duty to install procedures to insure that its responsibility is properly carried out. In the instant case the agency, as part of its responsibility to insure the correctness of payments, supplied Mr. Popick earning statements so that he might check on the accuracy of his earnings. Since he was given the means to verify the correctness of his paychecks and he failed to do so, we cannot hold that he was not at fault in the matter.

In view of the above, we find no basis for reversing the determination to deny the waiver requested.

R.F.KELLER

[Deputy] Comptroller General
of the United States