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DECISION



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

FILE: B-18635E

DATE: November 9, 1977

MATTER OF: David R. Miller - Payment for Annual Leave

DIGEST: Audit of time and leave records of employee of Veterans Administration (VA) at retirement revealed alleged overstatement of 40 hours of annual leave balance and action taken to reduce leave balance. Upon request for reconsideration by Controller, VA, of issuance of Certificate of Settlement, May 5, 1977, by Claims Division, authorizing payment, review of evidence and particularly Time and Attendance Report for period in question discloses lack of adequate documentation to clearly show claimant used 40 hours of annual leave. Therefore, Certificate of Settlement should be processed for payment for 40 hours of annual leave.

This action arises at the request of Mr. Conrad R. Hoffman, Controller, Veterans Administration (VA), in accordance with the provisions of section 15.1, title 4, General Accounting Office (GAO) Policy and Procedures Manual for Guidance of Federal Agencies, for reconsideration of the Certificate of Settlement issued by our Claims Division on May 5, 1977, in which payment to Mr. David R. Miller, a former employee at the VA Hospital, Perry Point, Maryland, was authorized for an additional 40 hours of annual leave. Mr. Miller is claiming payment for 40 hours of annual leave which was deducted from his annual leave balance at the time of his disability retirement on December 31, 1975.

In the administrative report dated January 26, 1976, submitted by the Office of Controller, VA, it is stated in pertinent part as follows:

"When Mr. Miller applied for disability retirement, an audit of VA Forms 4-5631, Time and Attendance Reports, was accomplished in accordance with existing guidelines. This audit is performed on all separations, transfers and applications for retirement, and includes all time and leave records on file of which the retention period is three years.

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"A coding error was discovered on VA Form 4-5631 for pay period 16, 1972, resulting in an overstatement of Mr. Miller's annual leave balance by 40 hours. Mr. Miller was informed of the error by payroll personnel and corrective action was taken to reduce the annual leave balance.

"In reviewing the copy of VA Form 4-5631 submitted, the posting would indicate that the 40 hour leave entry in question was supportable by an SF 71, Application for Leave. Although the SF 71 is retained for only one year, we must assume that it was on file at the time leave was taken since all time and leave information posted was certified correct by the employee's supervisor.

"VA Form 10-2912 is not recognized as a subsidiary record. This form is of an informal, optional nature and should not be used as the basis for posting leave to VA Form 4-5631. Therefore, it is immaterial that discrepancies in leave dates were noted when comparing the two forms.

"In view of the above, we can only conclude that Mr. Miller did in fact take 40 hours of leave during pay period 16, 1972, and that the facts relating to time and leave were accurately reflected by the timekeeper and certified correct by the supervisor delegated leave approving authority. * * *

The Controller in his request for reconsideration dated May 23, 1977, points out that VA Form 4-5631, Time and Attendance Report, is the official record used to record the time, attendance, and leave status for all VA employees and that entries are posted on a daily basis. He states that in making these entries, the unit timekeeper must have personal knowledge as to when the employee is on duty and when he is on leave or rely upon properly certified subsidiary records. Initialing of the Time and Attendance Report by the unit timekeeper indicates that it properly reflects the true status of the employee involved. Mr. Hoffman further reports

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that subsequent certification of VA Form 4-5631 by the employee's supervisor certifies the correctness of the time and leave data entered thereon.

The Controller of the VA also states that VA Department of Medicine and Surgery Records Control Schedule 10-1 provides that normally, applications for leave will be disposed of after 1 year, with an exception not applicable here. He points out that this disposal schedule is in accordance with the General Records Schedule No. 2, Item 8b. Mr. Hoffman concludes that should Mr. Miller's claim be allowed and since a Standard Form (SF) 71 is required to be completed for requested leave in excess of 3 days, the VA would have no alternative but to request a change in the required retention period for the SF 71 from 1 year to 3 years to coincide with the retention period established for the Time and Attendance Report in order to assure that the SF 71 would be available to substantiate any charges of leave which might be questioned in the future. It is further stated that VA Form 10-2912, the only document that could be located by local officials to clarify the situation, is a form used in an informal manner by the Engineering Service (the work unit where Mr. Miller was employed) to document annual and sick leave charges and is not considered to be a subsidiary record to VA Form 4-5631.

A review of a copy of VA Form 4-5631, Time and Attendance Report, for Mr. Miller shows that he was absent from August 7 through 11, 1972, on annual leave. His initials do not appear in the boxes allocated therefor and written therein is the notation in the top box "SF 71" with a line extending downward through the box opposite August 11, 1972. In the boxes on the lower portion of the form there are notations in columns 51, 52, and 53 indicating that Mr. Miller performed overtime work. Columns 32 and 33, utilized to record annual leave used by the employee, are blank. The timekeeper's handwritten initials appear on the Time and Attendance Report and also the signature of a supervisor who certified that the report was correct.

The agency record referred to in the administrative report, VA Form 10-2912, entitled "Information Data - Nursing Personnel," for one D. Miller, shows among other things, annual and sick leave used by the claimant. The form is completed for the months of January through August 1972, and the boxes for August 6 through 10, 1972, are filled with the letter "A," apparently to show the use of

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annual leave on those days. A signature does not appear on said form to show who prepared the form. It is noted that the dates on this form differ from the dates on VA Form 4-5631 showing the dates annual leave was charged against Mr. Miller's leave account.

The central issue involved in this appeal is whether, in conducting the audit of Mr. Miller's time and leave record at the time of his disability retirement, the VA obtained sufficient evidence to conclude that the employee was in fact absent from official duty from August 7 through 11, 1972, and thus justified in taking corrective action to reduce his annual leave balance at the time of his separation.

The audit performed by the VA included a review of all time and leave records on file. Time and Attendance Reports are required to be maintained for a period of 3 years. Section 16.2, title 6, GAO Policy and Procedures Manual for Guidance of Federal Agencies. However, SF 71, Application for Leave, is maintained by the VA for only 1 year. Hence, although the employee's VA Form 4-5631 indicated that he used 40 hours of annual leave in August 1972, the SF 71 which purportedly contained his signature evidencing his application for such leave has been destroyed. Section 16.2 of the GAO Manual also states that where the absence is for a full workday, "Indicated absences should be initialed by the employee or supported by a signed application." (Underlining supplied.) Therefore, the employee's initials were required to appear in the boxes under the column headed "Initials" on VA Form 4-5631 or a signed application (SF 71) must be available in support of the Time and Attendance Report.

With respect to the proper procedure for completion of the SF 71, the signature of the employee is required thereon, also the type of leave applied for, the number of hours requested for use, the beginning and ending dates, and the signature of the agency official authorized to approve or disapprove the application for leave. We are cognizant of the provision contained in VA Manual MP-6, Part V, Supplement No. 2.2, paragraph 105.12 which states that "When SF 71 is used in lieu of initialing the VA Form 4-5631, the notation 'SF 71' will be entered in the 'Initials' column of VA Form 4-5631." Also, we are aware that under the provisions of General Records Schedule 2, paragraph 8b, Federal Property Management Records 101-11.4, December 10, 1973, the authorized disposition period for applications for leave is 1 year after date of application. However, in the absence of a Time and Attendance Report containing

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the initials of the employee and where, as here, the SF 71 is being used in part as a substitute for the employee's initials and in support of VA Form 4-5631, the SF 71 must be available as written proof that the employee requested the type and amount of leave in question and has signed his name on such form. In this regard, note paragraph S2-9b(3)(c), subchapter S2, Book 630, Federal Personnel Manual Supplement 99C-2 where SF 71 is required to be retained for GAO audit purposes.

Based upon the foregoing, we concur with the suggestion made by the Controller of the VA that the agency seek approval of a 3-year retention period for SF 71 to coincide with the 3-year retention period established for the Time and Attendance Report, VA Form 4-5631, to assure the availability of the SF 71 to substantiate any charges of leave which might be questioned in the future.

In view of the foregoing, there is a lack of sufficient evidence to warrant the conclusion that Mr. Miller did in fact use 40 hours of annual leave from August 7 through 11, 1972. We are cognizant of the general rule adopted by this Office which states that when there is a conflict as to the facts involved in a particular claim between the claimant and the agency, we accept as controlling the reported facts as submitted by the administrative agency in the absence of clear and convincing evidence to show that the reported facts are inaccurate. B-184795, August 5, 1976; and B-178549, June 6, 1973. However, in the claim under consideration, unlike the facts and circumstances involved in B-180928, April 7, 1975, the Time and Attendance Report of the claimant does not clearly show that he used 40 hours of annual leave on the dates in question.

In the absence of such a showing and upon reconsideration, we find that the reduction of Mr. Miller's annual leave balance for the 40 hours of annual leave was erroneous. Therefore, the Certificate of Settlement dated May 5, 1977, which authorized payment of 40 hours of annual leave to Mr. Miller was proper and is returned herewith to be processed for payment by the VA.


Deputy Comptroller General
of the United States



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

B-186355

November 9, 1977

The Honorable Robert E. Bauman
Member, United States House
of Representatives
20 East Fulford Avenue
Bel Air, Maryland 21014

Dear Mr. Bauman:

Further reference is made to your letter of September 9, 1977, with enclosure, requesting our comments concerning the status of the claim of Mr. David R. Miller, a former employee at the Veterans Administration (VA) Hospital, Perry Point, Maryland, for payment of 40 hours of annual leave which was deducted from his annual leave balance at the time of his disability retirement on December 31, 1975.

On April 13, 1977, after further consideration of all the facts and circumstances involved in Mr. Miller's claim, we advised our Claims Division to issue a settlement in his favor in the amount found due. A Certificate of Settlement in the gross amount of \$362.40 representing the full monetary value of the 40 hours of annual leave, was issued by the Claims Division on May 5, 1977, to the Controller, VA, authorizing him to issue a settlement in the said amount to Mr. Miller in payment of the 40 hours of annual leave. Mr. Miller was duly notified of the actions. However, on May 23, 1977, the Controller of the VA asked that we reconsider our decision to allow Mr. Miller's claim and in his letter presented detailed arguments against allowance of the claim.

We have now, by decision of this date, B-186355, copy enclosed, and upon reconsideration, concluded that the reduction of Mr. Miller's annual leave balance by the 40 hours of annual leave in question was erroneous and that the Certificate of Settlement dated May 5, 1977, issued by our Claims Division authorizing payment of the 40 hours of annual leave, was proper and said certificate should be processed for payment by the VA.

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We appreciate your interest in the matter and are happy that we have been able to render a determination which is favorable to your constituent.

Sincerely yours,

Robert M. ...
Deputy Comptroller General
of the United States

Enclosure

UNITED STATES GOVERNMENT

GENERAL ACCOUNTING OFFICE

Memorandum

November 9, 1977

TO : Director, Claims Division

FROM : ^{Deputy} Comptroller General *Askillin*

SUBJECT: David R. Miller - Payment for Annual Leave - B-186355-O.M.

Returned herewith is Claims file No. Z-2610790, submitted here on June 8, 1977. By decision of this date, B-186355, copy attached, and upon reconsideration at the request of Mr. Conrad R. Hoffman, Controller, Veterans Administration (VA), we have affirmed B-186355-O.M., April 13, 1977, and again concluded that the reduction of Mr. Miller's annual leave balance for the 40 hours of annual leave in question was erroneous.

Accordingly, your Certificate of Settlement dated May 3, 1977, which authorized payment of 40 hours of annual leave to Mr. Miller was proper. We have therefore returned said Certificate to the VA to be processed for payment.

Attachments



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