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DECISION

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

FILE: B-195265

DATE: August 17, 1979

MATTER OF: Interest on delayed payment of benefits to health and welfare trust

DIGEST: Department of Labor may not pay interest to employees' health and welfare trust, even though delayed payment of benefits under Redwood National Park expansion act caused trust to lose income on its funds. There is no agreement by Department to pay interest, and neither authorizing nor appropriation acts provide for interest for late payment of benefits. In the absence of express contractual or statutory authorization, United States may not pay interest on its unpaid accounts.

AGC 00009

DLG 0259A

DLG 00980

The Acting Assistant Secretary of Labor for ~~Labor-Management Relations~~ requested a decision on whether the Department of Labor (Department) may properly pay interest to the "G-P/L-P and LPIW Health and Welfare Trust" (Trust) for benefit payments advanced by the Trust and reimbursed by the Department 5 to 13 months late. The payments were due under Title II of Public Law 95-250, for employees who lost their jobs because of the expansion of Redwood National Park. For the reasons indicated below, we conclude that the Department may not pay interest to the Trust for these delayed payments.

Title II of Public Law 95-250 (March 27, 1978), 92 Stat. 163, requires the Secretary of Labor to provide for the retention of health, welfare, and other benefits of employees who lose their jobs in the economic disruption caused by the expansion of Redwood National Park. The Secretary is to accomplish this end by entering into agreements with the employees, their employers, their labor unions, or their pension and welfare trust funds, and by paying to the trust funds, or directly to insurance companies, the amounts that would have been paid by the employer or labor union had the employees not lost their jobs.

During the effective period of the Act, the Louisiana Pacific Corporation closed its Samoa Plywood Plant and the employees of the plant lost their jobs. These employees were entitled to health and welfare benefits administered by the Trust.

[INTEREST TO Employees' HEALTH and Welfare Trust] ~~000191~~

The Department contacted the Trust, indicating its intention to maintain the benefit eligibility of the affected employees and offering to enter into an agreement to that effect with the Trust. The Trust and the Department were unable to agree on terms, however, and a written agreement was not executed. The Trust and the Department did agree orally that, until a written agreement is reached, the Trust will make the premium payments necessary to continue the affected employees' eligibility, and the Department will reimburse it for these payments.

Although the Trust began making premium payments on behalf of the affected Louisiana Pacific employees in March 1978, the Department did not reimburse the Trust for many months. An initial uncertainty about whether the Department could properly reimburse the March and April 1978 payments delayed the reimbursement of these payments until May 1979. Reimbursement for the May, June, and July 1978 payments was delayed until December 1978 while the Department developed its procedures for administering the program. The Trust has requested that the Department pay it interest for the delayed payments.

The United States may not pay interest on its unpaid accounts unless the payment of interest is provided for in a lawful contract or authorized by statute. United States v. Thayer-West Point Hotel Co., 329 U.S. 585 (1947); United States ex rel. Angarica v. Bayard, 127 U.S. 251 (1888); 58 Comp. Gen. 5 (1978); 51 Comp. Gen. 251 (1971); 45 Comp. Gen. 169 (1965). In the absence of statutory authorization, interest can be paid only when a contract provides affirmatively, clearly, and unambiguously that the United States will pay interest. United States v. Thayer-West Point Hotel Co., supra, at 590. Where there is no contract, a statute allowing interest must expressly and specifically set forth the intention of Congress that interest be paid. Id.


In the present instance, there is no contractual provision for the payment of interest. The Trust and the Department have not yet entered into a written agreement. The oral agreement, as reported to us, provides only that the Trust will make premium payments for eligible employees and that the Department will reimburse it for these payments. There was no understanding, we gather from the Assistant Secretary's submission, that the Department would pay interest for delayed reimbursements.

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Further, neither the authorizing legislation nor the applicable appropriation acts provide for the payment of interest. The authorizing legislation, Public Law 95-250, instructs the Secretary to make payments to pension and welfare funds or insurance companies on behalf of eligible affected employees. It also provides, in section 213(a), that "[t]he Secretary shall be responsible for paying promptly all benefits and payments provided by this Title." However, the Act does not contain any specific statement indicating the intent of Congress that interest be paid if the Secretary does not promptly reimburse a pension and welfare trust. Moreover, both the Second Supplemental Appropriations Act, 1978, Pub. L. No. 95-355, (September 8, 1978), 92 Stat. 523, and the Department of Labor Appropriation Act, 1979, Pub. L. No. 95-480, (October 18, 1978), 92 Stat. 1567, merely make funds appropriated for "Federal Unemployment Benefits And Allowances" available to pay benefits and payments authorized by Title II of Public Law 95-250. Neither appropriates funds for the payment of interest for delayed reimbursements.

We recognize, as the Department has noted, that the Trust acted in good faith, that it made payments to protect the rights of employees whose protection was the responsibility of the Secretary of Labor, and that the income it has lost as a result of the delayed reimbursements will require increased future contributions to the Trust from other sources. However, considerations of equity are not sufficient to authorize the payment of interest where it is otherwise not authorized. See, e.g., Economy Plumbing and Heating Co. v. United States, 470 F. 2d 585, 594 (Ct. Cl. 1972).

For the reasons stated, we must conclude that the Department of Labor may not pay interest to the "G-P/L-P and LPIW Health and Welfare Trust" for the delayed reimbursements of benefit payments.


Deputy Comptroller General
of the United States