



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** LTC David O. Chastain - Request for Waiver  
**File:** B-248558  
**Date:** June 18, 1992

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### DIGEST

Air Force member received family separation allowance (FSA) beyond the period when he was separated from his family. His request that the debt arising from the erroneous payment be waived is denied, where the payment was reflected as a discrete item on the member's Leave and Earnings Statement (LES), so that he had reason to know of the overpayment and should have questioned it.

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### DECISION

LTC David O. Chastain appeals a decision of our Claims Group denying in part his request for waiver of a debt that resulted from an overpayment to him for the period from March 2 to September 27, 1991. The Claims Group approved waiver of \$28 of the \$515 erroneous payment of family separation allowance (FSA) on the ground that at the time of that payment LTC Chastain had no reason to know he was not entitled to FSA, but it denied waiver of the \$487 balance. We affirm the Claims Group's decision.

LTC Chastain continued to receive FSA after returning to the United States on March 2, 1991, following Operation Desert Storm. His leave and earnings statements (LES) for the period in question indicated that he was receiving FSA, though he no longer was separated from his family. The erroneous payment continued until discovered by finance officials in September 1991. A letter of October 22, 1991, from Colonel Chastain's local Accounting and Finance Office informed him of the error and instructed him to reimburse \$515.

The Air Force submitted LTC Chastain's request that the debt be waived to our Claims Group. The Air Force recommended waiver for the first erroneous payment of \$28, covering the period from March 2 to March 15, because LTC Chastain did not receive a March LES showing the FSA for weeks after the payment. However, the Air Force reasoned, LTC Chastain should have questioned the FSA payment upon receiving that

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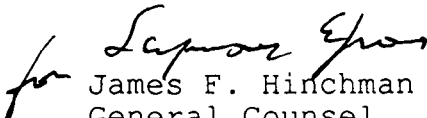
LES and subsequent statements. The Claims Group agreed with the Air Force's recommendation.

Under 10 U.S.C. § 2774 our Office may waive a claim against a member of the armed services arising from an erroneous overpayment if collection would be against equity and good conscience and not in the best interest of the United States. We will not waive a claim, however, if the member should have known that an error existed and taken action to have it corrected. 10 U.S.C. § 2774(b)(1); Chief Petty Officer Manolo D. Gullaba, USN (Retired), B-244513, Dec. 10, 1991.

LTC Chastain says that he first became aware of the error when he received the October 22 letter from the Accounting and Finance Office. He claims that as an Air Force doctor he should not have been expected to know that "FSA" in the LES stands for "family separation allowance," and that he therefore had no reason to question it.

A member has a responsibility to be aware of his entitlements. James L. Grahl - Request for Waiver, B-239274, July 12, 1990. LTC Chastain is a high-ranking official at an Air Force Medical Center, and had 13 years of service. His unfamiliarity with the acronym "FSA" does not, in our view, excuse his failure to recognize and question the overpayment.

The Claims Group's settlement is affirmed.

*for*   
James F. Hinchman  
General Counsel