

Maguire
PUM-I

DECISION



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

FILE: B-221264

DATE: April 29, 1986

MATTER OF: Charles Wener

DIGEST:

When the allotment check of an Army employee was not received by his bank, the employee requested that the check be reissued. He did not receive the reissued check until several months later. The Army may not pay interest on the amount of the allotment since interest may only be paid under express statutory or contractual authorization and no such authorization exists under these circumstances.

This action is in response to a request for an advance decision regarding whether interest may be paid to Charles Wener.^{1/} We are aware of no authority which would allow the payment of interest in the particular circumstances.

Mr. Wener, an employee of the Army Corps of Engineers, had arranged for an allotment of \$300 to be deducted from his pay and sent directly to his bank. Check No. 71729185 was issued on August 10, 1984, to be deposited in Mr. Wener's account. Mr. Wener made inquiry of the Army when he learned that the bank had not received the check. A replacement check was not issued until April 1985. Because it has been unable to provide a justification for the delay in reissuing the check, the Army asks whether interest may be paid to Mr. Wener.

The Army states that it is aware of the well-established rule that payment of interest by the Government on its unpaid accounts or claims may not be made except when interest is provided for under express statutory or contractual authorization. The Army refers, however, to a settlement by our Claims Group which allowed payment of interest

^{1/} The request was made by J. M. Burke, Finance and Accounting Officer, U.S. Army, Omaha District Corps of Engineers, Omaha, Nebraska.

035266

in the case of an Army employee under circumstances involving a delay in the payment of amounts owed to him by the Government.

The case referred to by the Army involved a member of the Uniformed Services who had deposited money with the Army under the Uniformed Services Savings Deposit Program established pursuant to 10 U.S.C. § 1035 (1970). That statute authorized payment of interest prescribed by the President, not to exceed 10 percent a year on amounts deposited under the program. Although the law was not repealed, the program was phased out for most depositors as of June 30, 1974, when funds for the payment of interest were reduced and amounts on deposit were returned to the service members. In the particular case before this Office, the funds which had been deposited by the individual were not returned to him until September 20, 1974. Payment of interest for the period between June 30, 1974, and September 20, 1974, was authorized by our Claims Group based on office memorandum B-183769-O.M., April 6, 1976, cited by the Army. In that memorandum we found that the Government had specific statutory authority to pay interest on funds deposited under the program until they were returned to the service member.

In the present case, the employee arranged for an allotment to be deducted from his pay and sent to his bank for deposit. Authority for such deductions is found in 5 U.S.C. § 5525 and implementing regulations at 32 C.F.R. § 89.1 et seq. This authority, unlike the savings program established by 10 U.S.C. § 1035, does not provide for depositing funds with the Government, nor does it provide for payment of interest. In the case of an allotment made under this authority, there is neither a contractual agreement nor statutory authority which would provide a basis for payment of interest when the issuance of an allotment check is delayed.

Further, we note that the courts have held that delay by the United States in making payment, even if that delay can be termed unreasonable, does not create an entitlement to interest. See United States v. N.Y. Rayon Importing Co., 329 U.S. 654, 660 (1947); Economy Plumbing and Heating Co. v. United States, 470 F. 2d 585, 594 (Ct. Cl. 1972).

B-221264

In conclusion, we find that there is no authority for payment of interest on the amount of the allotment check issued to Mr. Wener's account, even though there apparently was a delay by the Government in reissuing that check.

for *Milton J. Fowler*
Comptroller General
of the United States