

Compensation Claim Decision
Under section 3702 of title 31, United States Code

Claimant: [name]

Organization: Bureau of Reclamation
Department of the Interior
Lakewood, Colorado

Claim: Request for Waiver of Debt for
Optional Federal Employees' Group Life
Insurance Premiums

Agency decision: Denied

OPM decision: Denied for Lack of Jurisdiction

OPM contact: Robert D. Hendler

OPM file number: 05-0013*

[Erroneously issued as duplicate file number 05-0013]

/s/ Judith A. Davis for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability
Human Capital Leadership
and Merit System Accountability

6/1/2006

Date

The claimant retired on September 19, 2003, from her [position] with the Department of the Interior, Bureau of Reclamation, in Lakewood, Colorado. She requests that the U.S. Office of Personnel Management (OPM) waive a debt for optional Federal Employees' Group Life Insurance premiums that her former employing agency is seeking to recoup from her. The debt was incurred during her employment with the agency because an error in her recorded age resulted in her not paying the correct premium. For the reasons discussed herein, OPM does not have jurisdiction to adjudicate this claim.

OPM is responsible for reviewing and adjudicating all claims related to compensation and leave for civilian positions under the provisions of section 3702 of title 31, United States Code (U.S.C.). However, OPM cannot take jurisdiction over the compensation or leave claims of Federal employees *that are or were subject* to a negotiated grievance procedure (NGP) under a collective bargaining agreement (CBA) between the employee's agency and labor union for any time during the claim period, unless that matter is or was specifically excluded from the agreement's NGP. (Emphasis added). The Federal courts have found that Congress intended that such a grievance procedure is to be the exclusive administrative remedy for matters not excluded from the grievance process. *Carter v. Gibbs*, 909 F.2d 1452, 1454-55 (Fed. Cir. 1990) (en banc), *cert. denied*, *Carter v. Goldberg*, 498 U.S. 811 (1990); *Mudge v. United States*, 308 F.3d 1220 (Fed. Cir. 2002). Section 7121(a)(1) of title 5, United States Code, mandates that the grievance procedures in negotiated CBAs be the exclusive administrative procedures for resolving matters covered by the agreements. *Accord, Paul D. Bills, et al.*, B260475 (June 13, 1995); *Cecil E. Riggs, et al.*, 71 Comp. Gen. 374 (1992).

During the claim period, the claimant occupied a position covered by a collective bargaining agreement between the International Federation of Professional and Technical Engineers, Local 128 and the Bureau of Reclamation. Because compensation and leave issues are not specifically excluded from the NGP during the period covered by her claim; i.e., the period in which she incurred her debt, they must be construed as covered by the NGP that the claimant was subject to during the claim period. Therefore, OPM has no jurisdiction to adjudicate the underlying issues of her potential compensation claim.

As a result of legislative and executive action, the authority to waive overpayments of pay and allowances now resides with the heads of agencies. See the General Accounting Office Act of 1996, Pub. L. No. 104-316, 110 Stat. 3826, approved October 19, 1996, and the Office of Management and Budget's (OMB) Determination Order dated December 17, 1996. Neither Pub. L. No 104-316 nor OMB's Determination Order of December 17, 1996, authorizes OPM to make or to review waiver determinations involving erroneous payments of pay or allowances. Therefore, we do not have jurisdiction to consider, or issue a decision on, the request for a waiver of the claimant's indebtedness to the Federal Government. We note the claimant's request for a waiver was submitted to and denied by her agency component. If agency procedures permit, the claimant may wish to elevate this request to the department level, or alternatively, directly with the insurer.

This settlement is final. No further administrative review is available within the OPM. Nothing in this settlement limits the claimant's right to bring an action to the appropriate United States Court.

OPM file number 05-0013