

## Waiver of claims for erroneous payment of pay

**Y**ou've just received a letter of demand from the Postal Service for \$500. According to the letter of demand, the Postal Service made a pay calculation error after you bid, a year ago, from a carrier technician position (Grade 2) to carrier position (Grade 1). Should you file a request for a waiver and should you also file a grievance? In many cases, the answer is yes. You should file a grievance because your waiver request could be denied by the Accounting Service Center (ASC). The ASC may determine that you did not meet the criteria set forth in Part 437.6 of the *Employee and Labor Relations Manual (ELM)*.

While the waiver process is taking place, an Article 28 grievance prohibits the Postal Service from collecting a debt, regardless of the amount or type of debt until disposition of the grievance and/or petition has been had, either through settlement or exhaustion of contractual and/or administrative remedies. Additionally, Article 28 requires the employer to inform an employee in writing in advance of the reasons for any monetary demand. If the Postal Service fails to provide the employee in writing of the reasons for the monetary demand, a grievance should be filed.

Part 437 of the *ELM* allows an employee or former employee to request a waiver of certain types of mistakes that involve pay (among other items), including: salary, wages, and compensation for services, including premium pay, holiday pay, and payment for leave. The ASC waives a claim if an overpayment resulted from an administration error of the Postal Service. Excluded from consideration are errors in time keeping, keypunching, machine processing of time cards or time credit, coding, and any typographical errors that are adjusted routinely in the process of current operations.

You should also know that nothing contained in Part 437 of the *ELM* precludes an employee from requesting a waiver where the employer erroneously failed to withhold any employee insurance premiums. See Step 4 settlement Q98N-4Q-C 00187353, September 20, 2001 (M-01446).

Part 437 of the *ELM* sets forth the procedures for:

(a.) Requesting a waiver of a claim made by the Postal Service against a current or former employee for the recovery of pay that was erroneously paid; and

(b.) Applying for a refund of money paid by or deducted from a current or former employee as a result of such a claim.

Part 437.2 of the *ELM* defines pay as:

a. Pay—salary, wages, or compensation for services including all forms of premium pay, holiday pay, or shift differentials; payment for leave, whether accumulated, accrued, or advanced; and severance pay. Pay does not include rental allowances or payment for travel, transportation, or relocation expenses.

Waiver action may not be taken after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered.

Procedures for the submission of a request for a waiver of a claim can be found in 437.32 PS Form 3074:

The applicant requests a waiver of a claim or a refund of money paid as a result of a claim by submitting PS Form 3074, *Request for Waiver of Claim for Erroneous Payment of Pay*, in triplicate to the installation head. The completed PS Form 3074 must contain:

a. Information sufficient to identify the claim for which the waiver is sought, including the amount of the claim, the period during which the erroneous payment occurred, and the nature of the erroneous payment.

b. A copy of the invoice and/or demand letter sent by the Postal Service, if available, or a statement setting forth the date the erroneous payment was discovered.

c. A statement of the circumstances that the applicant feels would justify a waiver of the claim by the Postal Service.

d. The dates and amount of any payments made by the employee in response to the claim.

The installation head investigates the claim and writes a report of the investigation on the reverse side of the PS Form 3074. There are specific elements that the installation head's written report should include. They can be found in *ELM* 437.4, *Review by Installation Head*. The installation head forwards the PS Form 3074 to the servicing Human Resources official, who a) reviews the file for accuracy and completeness, b) completes Part III of PS Form 3074, c) adds any pertinent comments to the file, and d) forwards the entire file to the payroll processing branch of the Eagan ASC for its determination of whether or not to waive the claim. ☐