



**DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
POST OFFICE BOX 3656
ARLINGTON, VIRGINIA 22203-1995**



DATE: February 25, 2026

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| In Re: [REDACTED] Claimant |)))))) | Claims Case No. 2023-WV-050309.3 |
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**CLAIMS APPEALS BOARD
RECONSIDERATION DECISION**

DIGEST

Under 5 U.S.C. § 5584, the Defense Office of Hearings and Appeals (DOHA) has the authority to waive a claim for repayment of erroneous payments of pay and certain allowances made to specified federal employees, if collection of the claim would be against equity and good conscience and not in the best interest of the United States, provided that there is no evidence of fraud, fault, misrepresentation, or lack of good faith on the part of the employee.

DECISION

An employee requests reconsideration of the decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 2023-WV-050309.2, dated September 16, 2025. In that decision, DOHA waived in part the collection of a debt owed by the employee. The employee seeks waiver of the remaining indebtedness.

Background

The record reflects that the employee received a promotion from a WG-08, Step 2 (\$28.38 per hour) to a WG-10, Step 1 (\$32.23 per hour) effective May 22, 2022. However, it was later determined that the employee’s hourly rate should have been set at \$30.43 instead of \$32.23. As a result, during the period May 22, 2022, through August 13, 2022, the employee was overpaid \$928.80.

The record further reflects that a corrective SF-50, *Notification of Personnel Action*, was issued on August 25, 2022, setting the employee’s hourly rate as a WG-10, Step 1 at \$30.43. As a result, the employee was paid correctly during the period August 14, 2022, through September 10, 2022. However, another SF-50 was erroneously processed on September 22, 2022, reflecting

the employee's promotion from a WG-08, Step 2 (\$28.38 per hour) to a WG-10, Step 1 (\$32.23 per hour) effective May 22, 2022. As a result of this administrative error, the employee was overpaid \$144.00 in regular salary during the period September 11, 2022, through September 24, 2022, and erroneously received retroactive pay in the amount of \$1,216.80 for the period May 22, 2022, through September 10, 2022. In addition, the employee was overpaid \$176.40 in regular salary during the period September 25, 2022, through October 8, 2022. Therefore, the employee was erroneously overpaid a total of \$2,466.00 (\$928.80 + \$144.00 + \$1,216.80 + \$176.40).

The adjudicator waived \$928.80 of the government's claim, and that amount is not at issue in our decision. The adjudicator denied waiver of \$1,537.20, which represented the amount of the overpayment the employee received after his salary was corrected. The adjudicator found that the employee should have known that he was being overpaid based on the pay documentation issued to him, which included the SF-50s and his leave and earnings statements (LESs).

In his reconsideration request, the employee requests waiver of the remainder of his debt on the basis that he has repaid his debt through offset to his salary. He attaches documentation reflecting his repayment of the debt and states that he took action to rectify the debt until his waiver request was approved. He states that when he learned that his pay was increased to another amount that was not even on any wage scale for his actual title, he immediately contacted his Human Resources Office after receiving his LES that reflected an indebtedness. He states that his Human Resources Office requested waiver on his behalf because it was an administrative error. He states that while he was dealing with the first administrative error, he received the second debt notification. He states that both of his debts were satisfied through offset to his salary in the amount of \$25.00 each week.

Discussion

Our authority in this matter pertains to the appropriateness for waiver under 5 U.S.C. § 5584. Preliminarily, we must stress that DOHA has no authority over the establishment of a debt against an employee and any resulting collection action. Under the *Debt Collection Act*, 5 U.S.C. § 5514, the Defense Finance and Accounting Service (DFAS) has the authority over the establishment of debts, including the calculation and amount of a debt, notifying the employee of the debt, conducting due process hearings on the validity of the debt, and any resulting repayment plan established, and recoupment and collection actions. Under 5 U.S.C. § 5584, DOHA has the authority to waive collection of erroneous payments of salary made to employees, if collection would be against equity and good conscience and not in the best interests of the United States, provided there is no indication of fraud, fault, misrepresentation, or lack of good faith on the part of the employee. The statute is implemented within the Department of Defense under Department of Defense Instruction (Instruction) 1340.23 (February 14, 2006). The Standards for Waiver Determinations are found at Enclosure 4 of the Instruction. In relevant part, an employee who receives an erroneous payment from the government acquires no right to it and is bound in equity and good conscience to make restitution, no matter how careless the act of the government may have been. In theory, restitution results in no loss to the

recipient because the recipient received something for nothing. Waiver is not a matter of right. It is available to provide relief as a matter of equity, if the circumstances warrant. *See* Instruction ¶ E4.1.1.

A waiver is not appropriate when a recipient knows, or reasonably should know, that a payment is erroneous. An employee is considered to be aware of erroneous payments when the employee possesses information which reasonably suggests that the validity of the payments may be in question. In such a case, the employee has a duty to notify an appropriate official and to set aside the funds for eventual repayment to the government. *See* Instruction ¶ E4.1.4.

In this case, the employee was put on notice of the error in his salary with the issuance of an SF-50 on August 25, 2022, correcting his hourly rate from \$32.23 to \$30.43. The employee was paid correctly (\$30.43 per hour) during the period August 14, 2022, through September 10, 2022. DFAS then sent the employee a debt notification letter concerning his indebtedness of \$928.80 on September 10, 2022. Therefore, at the time the employee received overpayments totaling \$1,537.20 during the subsequent pay periods, he should have known that his hourly rate was incorrect and had a duty to not only notify an appropriate official but also set aside the funds for eventual repayment to the government. *See* DOHA Claims Case No. 2014-WV-090207.2 (June 11, 2015); DOHA Claims Case No. 2010-WV-010810.3 (May 24, 2010); DOHA Claims Case No. 98040118 (July 6, 1998); and DOHA Claims Case No. 98040110 (June 8, 1998). Accordingly, we uphold the decision to deny waiver of \$1,537.20.

Conclusion

The employee's request for reconsideration is denied, and we affirm the decision dated September 16, 2025. In accordance with Instruction ¶ E8.15, this is the final administrative action in this matter.

SIGNED: Catherine M. Engstrom

Catherine M. Engstrom
Administrative Judge
Chair, Claims Appeals Board

SIGNED: Michelle P. Tilford

Michelle P. Tilford
Administrative Judge
Member, Claims Appeals Board

SIGNED: David F. Hayes

David F. Hayes
Administrative Judge
Member, Claims Appeals Board