



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



DATE: May 22, 2026

)	
In Re:)	
[REDACTED])	Claims Case No. 2024-WV-060502.3
)	
Claimant)	

**CLAIMS APPEALS BOARD
 RECONSIDERATION DECISION**

DIGEST

Under 10 U.S.C. § 2774, the Defense Office of Hearings and Appeals (DOHA) has the authority to waive a claim for erroneous payment of pay and allowances, including retired pay, made to members, 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 member.

DECISION

A retired member of the U.S. Army requests reconsideration of the decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 2024-WV-060502.2, dated August 25, 2025. In that decision, DOHA denied waiver of the debt of \$38,540.07 owed by the member resulting from the erroneous payment of retired pay.

Background

The member retired from the Army in December 2011 and began receiving military retired pay. He also began receiving Department of Veterans Affairs (VA) disability compensation effective December 13, 2011. The record reflects that the VA did not give notice to the Defense Finance and Accounting Service (DFAS) U.S. Military Retired Pay Office that the member was in receipt of disability compensation. It was later determined that the member did not become eligible for Concurrent Retirement and Disability Pay (CRDP) until January 1, 2023, when the VA increased his disability rating. As a result, the member was overpaid retired

pay during the period December 13, 2011, through November 30, 2016, in the amount of \$38,540.07.

The member requested waiver of his debt. On June 5, 2024, DOHA received the member's waiver request from DFAS. DFAS recommended full waiver of the member's debt in the amount of \$38,540.07. DFAS based their recommendation on the fact that the member would not have readily been able to determine that he was not entitled to receive CRDP, *i.e.*, full receipt of his military retired pay and VA disability compensation during the period December 13, 2011, through November 30, 2016. DFAS explained that the member did not receive a letter explaining the calculations of his retired pay and VA disability compensation, nor did he receive any account statements detailing his entitlements. DFAS stated that the member relied on the expertise of his administrative personnel to pay him the proper amounts he was authorized. The DOHA adjudicator reviewed the case file and requested more documentation and information from DFAS to properly adjudicate the case. After not receiving the documentation and information requested, the adjudicator remanded the case file to DFAS. On July 24, 2024, DFAS provided DOHA with supplemental documentation and requested DOHA resume its adjudication.

The DOHA adjudicator disagreed with DFAS's recommendation to waive the claim. The adjudicator found that the member should have reasonably been aware that he was being overpaid. The adjudicator found that the member was on notice by virtue of completing his retired pay application and his request for VA disability compensation that he was not entitled to receive both concurrently.

In his request for reconsideration, the member submits documentation corroborating his version of events, specifically that he did not complete the VA disability compensation application. He further states that he received no documentation reflecting the calculation of his retired pay and therefore had no reason to question it.

Discussion

Under 10 U.S.C. § 2774, we have the authority to waive claims for erroneous payments of pay and certain allowances made to or on behalf of members or former members of the uniformed services, if repayment 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 member. *See* Department of Defense Instruction 1340.23 (Instruction) ¶ E4.1.2 (February 14, 2006).

In this case, the member's version of events is supported by the written record and corroborated by the statements he has submitted in his reconsideration request. Therefore, we believe the member accepted the overpayment in good faith, and all other considerations for waiver have been met. Accordingly, we hereby waive \$38,540.07.

Conclusion

The member's request for reconsideration is granted, and we hereby grant waiver in the amount of \$38,540.07. 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