



**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] Claimant)))))	Claims Case No. 2024-WV-011701.3
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**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. Navy requests reconsideration of the decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 2024-WV-011701.2, dated August 30, 2025. In that decision, DOHA denied waiver of the debt of \$30,997.47 owed by the member resulting from the erroneous payment of retired pay.

Background

The member served in the Army National Guard (ANG) in 1993 but later separated and enlisted in the Navy in 1996. He was originally told that he would not receive service credit for his time spent in the ANG. In 2018, the member’s record was updated to include credit for his time in the ANG. On September 1, 2021, the member retired from the Navy. Due to an administrative error, the member’s retired pay was incorrectly based on 28 years of active service instead of 26 years of active service. As a result, the member was overpaid \$30,997.47 during the period September 1, 2021, through March 31, 2023.

The Defense Finance and Accounting Service (DFAS) recommended waiver of the claim based on the fact that although the member initially believed his retired pay to be set in error, he questioned it and was assured by Navy officials that it was calculated correctly. The DOHA adjudicator disagreed with DFAS's recommendation to waive the claim. The adjudicator found that the member reasonably should have been aware that his retired pay was miscalculated. The adjudicator noted that even though the member questioned his retired pay, the record was absent any official documentation reflecting that the member was then advised that his retired pay was correct.

In his request for reconsideration, the member submits detailed corroborating evidence that he questioned his retired pay and was assured on multiple occasions by the appropriate officials that it was correct.

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. Therefore, we believe the member accepted the overpayments in good faith, and all other conditions for waiver have been met. Accordingly, we waive \$30,997.47. *See* DOHA Claims Case No. 2013-WV-052806.2 (July 17, 2014).

Conclusion

The member's request for reconsideration is granted, and we hereby grant waiver in the amount of \$30,997.47. 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