

Putnam



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Deborah M. West - Refund of Private Life and Health Insurance Premiums - New Temporary Schedule C Employee

File: B-238509

Date: April 9, 1990

DIGEST

A new temporary Schedule C employee who was erroneously excluded from the Federal Employees Life and Health Benefits Programs for approximately 5 months may not be reimbursed for the difference in the cost of premium payments she made for private life and health insurance coverage during that period.

DECISION

The issue in this decision is whether a "New Temporary Schedule C" (NTC) appointee who was erroneously excluded from the life and health insurance programs for a period of approximately 5 months may be reimbursed for the difference in the cost of private life and health insurance premiums she paid during that period.^{1/} For the following reasons we hold that she may not be reimbursed for those expenses.

BACKGROUND

On July 12, 1989, Ms. Deborah M. West was appointed under 5 C.F.R. § 213.3302 (1989) as a Confidential Assistant to a presidential appointee as a New Temporary Schedule C (NTC) employee with the National Labor Relations Board (NLRB). At the time of her appointment, Ms. West was ineligible for federal employee life and health benefits since she was an employee serving under an appointment limited to 1 year or less. See 5 C.F.R. §§ 870.202(a)(1) and 890.102(c)(1) (1989).

Effective July 14, 1989, the Office of Personnel Management (OPM) amended the Federal Personnel Manual (FPM),

^{1/} This decision is in response to a request by Mr. Ernest Russell, Director of Administration, National Labor Relations Board (NLRB).

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chapter 213, appendix A, section A-6(b)(4), to permit life and health insurance coverage for NTC appointments made to continuing positions when the agency intends to convert the incumbent to a Schedule C appointment without time limits. Thus, effective July 14, 1989, Ms. West was entitled to federal life and health insurance coverage since NLRB intended to convert Ms. West to a Schedule C appointment without time limits. However, due to administrative error, NLRB did not receive a copy of the amendment to the FPM until December 1989. Ms. West then was offered and enrolled in federal life and health insurance plans. During the intervening period, Ms. West had paid premiums to private companies in excess of what she would have paid under federal life and health insurance plans in the respective amounts of \$194.34 and \$852.41. The NLRB asks whether it may reimburse Ms. West for these excess amounts she paid to the private insurance carriers.

OPINION

The 1989 amendment to the OPM regulations provided that when NTC appointments are made "to continuing positions with the intent of converting the incumbents to Schedule C appointments without time limits," such employees will be eligible for life insurance and health benefits. FPM, ch. 213, app. A, § A-6((b)(4) (Inst. 352, July 14, 1989). Therefore, inasmuch as the NLRB intended to convert Ms. West to a Schedule C position without time limits, we agree that she became eligible for life and health insurance benefits on July 14, 1989.

With respect to life insurance, OPM regulations authorize its Associate Director of Compensation or his/her designee to order correction of an error, mistake, or omission. 5 C.F.R. § 870.102. As to health insurance, OPM regulations permit the employing agency to correct administrative errors prospectively, and OPM may order correction of an error, mistake or omission. 5 C.F.R. § 890.103(a) and (b). However, we know of no basis to reimburse Ms. West for the additional cost of private life and health insurance coverage she paid as a result of this administrative error. Neither the statute nor the regulations authorize the correction of an error through reimbursement of an employee's out-of-pocket expenses in connection with such error. See Joyce A. Doyle, B-234866, Nov. 17, 1989, where we held that a presidential appointee who was erroneously excluded from the Federal Employees Health Benefits Program for over 6 months could not be reimbursed for the difference in the cost of premium payments made for private health insurance coverage during that period.

Accordingly, we hold that NLRB may not reimburse Ms. West the sums of \$194.34 and \$852.41 representing the difference in premium payments she paid for private life and health insurance coverage instead of federal life and health insurance coverage.

for 
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of the United States