



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Willie F. McCormick - Back Pay Act  
File: B-233836  
Date: June 13, 1989

### DIGEST

1. Neither the Back Pay Act, 5 U.S.C. § 5596, nor the implementing regulations in 5 C.F.R. § 550.801 et seq. (1987) authorize consequential relocation and moving expenses when an erroneously separated employee is reinstated. Such expenses do not represent benefits an employee would have received had the personnel action not occurred.
2. A reinstated employee who is eligible for backpay under 5 U.S.C. § 5596 as a result of an improper personnel action may not be reimbursed for medical insurance premiums incurred in the period of the wrongful dismissal.

### DECISION

This is in response to a request by the Per Diem, Travel and Transportation Allowance Committee for an advance decision regarding the claim of Ms. Willie F. McCormick, PDTATAC Control No. 88-19. Ms. McCormick has asked for a review of the decision of the Eaker Air Force Base Civilian Personnel Officer to deny her claims for moving expenses, lease termination costs, health insurance premium costs and Federal Express charges. The Committee has asked us to examine primarily the health insurance and Federal Express claims.

### BACKGROUND

There are few facts presented in this claim. As we understand it, Ms. McCormick was released from government service in November 1981 as a result of an improper personnel action. She filed suit, won her case, and was reinstated on September 4, 1987. Prior to her reinstatement, Ms. McCormick had apparently moved from Arkansas to San Antonio, Texas, rented an apartment there and bought a health insurance policy. Her claims arise out of the

expenses she incurred as a result of the improper personnel action.

#### OPINION

The Back Pay Act, 5 U.S.C. § 5596 (1982), provides, generally, that an employee who is found by an appropriate authority to have undergone an unjustified or unwarranted personnel action which results in the withdrawal or reduction of all or part of his pay, allowances, or differentials is entitled to receive an amount equal to the pay, allowances or differentials he normally would have received, less amounts earned by him elsewhere during the period.

Regulations implementing the Back Pay Act, promulgated by the Office of Personnel Management, provide that an agency shall compute the pay, allowances, or differentials of the employee as if the unjustified or unwarranted personnel action had not occurred. However, in no case will the employee be granted more pay, allowances, or differentials than he or she would have been entitled to if the unjustified or unwarranted personnel action had not occurred. 5 C.F.R. § 550.805(a) and (b) (1987).

#### Relocation Expenses

As was noted in the submission, neither the Back Pay Act nor the implementing regulations authorize consequential relocation and moving expenses when an erroneously separated employee is reinstated. Although such expenses may result from an improper personnel action, they do not represent benefits an employee would have received had the personnel action not occurred. See John H. Kerr, 61 Comp. Gen. 578 (1982); Dwight Kimsey, B-225289, Feb. 17, 1987. In this case, neither the moving expenses nor the lease termination expenses would be covered.

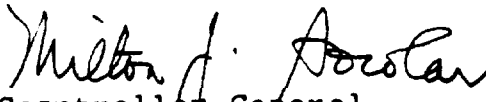
#### Health Insurance Premiums

In regard to the recovery of health insurance premiums, the remedy for employees who have been removed due to an unjustified personnel action is found in 5 U.S.C. § 8908 (Supp. III 1985). Under 5 U.S.C. § 8908, a restored employee has the option of enrolling as a new employee in the health benefits program or having previous coverage restored. If an employee elects to re-enroll as a new employee, no deductions will be made in his backpay award for health insurance benefits. If coverage is restored, a deduction is made in his backpay award for the premiums the employee would have paid had he not been separated.

There is no provision for reimbursement by the government of the cost of any private health insurance which may have been obtained. See James B. Ruch, B-215626, Jan. 7, 1985; B-167875, Oct. 31, 1969.

#### Federal Express Charges

In regard to the claim for Federal Express charges, the only information provided in the submission as an explanation for this claim was a statement by Ms. McCormick that "receipt was for correspondence returned at the request of Civilian Personnel." We have no information as to who requested that the documents be sent in this manner, what documents were sent, or why the documents had to be sent by Federal Express. If the claimant wishes to supplement this claim we will consider it at that time.

  
Acting Comptroller General  
of the United States