

Compensation Claim Decision
Under section 3702 of title 31, United States Code

Claimant: [name]

Organization: [medical center]
Department of Veterans Affairs
[city & State]

Claim: Reimbursement of Health and Life
Insurance Deductions from Back
Pay Award

Agency decision: N/A

OPM decision: Denied; Res Judicata

OPM file number: 07-0047

/s/ for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

2/11/2008

Date

The claimant's request for redress was forwarded by the Chief, Fiscal Officer, [medical center], Department of Veterans Affairs (VA), [city & State], based on the claimant's apparent disagreement with the deductions for Health Insurance and Life Insurance taken from the back pay directed by the Equal Employment Opportunity Commission (EEOC) as a result of a finding of discrimination. The request was received by the U.S. Office of Personnel Management (OPM) on September 4, 2007. For the reasons discussed herein, the claim is barred by res judicata.

The record shows the claimant prevailed in an EEO complaint filed against VA (EEOC [case number], issued October 31, 2006), which directed he be made whole under the provisions of 29 CFR § 1614.501 "in the same manner as prescribed by 5 CFR 550.805...." It appears the activity's Chief, Fiscal Officer, viewed the claimant's disagreement with the deduction of Health and Life Insurance premiums from his back pay award as a compensation claim covered by the provisions of 31 U.S.C. § 3702(a)(2) and forwarded it to OPM for adjudication. Based on the record before us, it appears the activity, on behalf of VA, accepted EEOC's finding of discrimination and took action to make the complainant whole.

Part 178 of title 5, Code of Federal Regulations (CFR), concerns the adjudication and settlement of claims for compensation and leave performed by OPM under the provisions of section 3702(a)(2) of title 31, United States Code (U.S.C.). Section 178.102(a)(3) of title 5, Code of Federal Regulations, requires that an employing agency already has reviewed and issued an initial decision on a claim before it is submitted to OPM for adjudication. Based on the information submitted, we find no record of the claimant having filed a claim with his employing agency or having received a written agency-level; i.e., VA-level, denial of his claim on this matter. Instead, the information provided pertains to activity-level actions. However, we may render a decision on this matter based on jurisdictional grounds.

As discussed in *Stearn v. Department of the Navy*, 280 F.3d 1376 (Fed. Cir 2002):

Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties from relitigating issues that were or could have been raised in that action. *Federated Dep't Stores, Inc. v. Moitie*, 452 U.S. 394, 398, 69 L. Ed. 2d 103, 101 S. Ct. 2423 (1981) . . . The doctrine serves to "relieve parties of the cost and vexation of multiple law suits, conserve judicial resources, and . . . encourage reliance on adjudication." *Allen v. McCurry*, 449 U.S. 90, 94, 66 L.Ed. 2d308, 101 S.Ct. 411 (1980).

In the instant case, the EEOC decision makes clear EEOC retains jurisdiction over its decision and any disputes regarding implementation of the decision. Under COMPLIANCE WITH AN AGENCY FINAL ACTION (page 23), the EEOC decision states:

If the Complainant believes that the Agency has failed to comply with terms of the final action, the Complainant shall notify the Agency's EEO Director, in writing, of the alleged noncompliance within thirty calendar days of when the claimant knew or should have known of the alleged noncompliance. The Agency shall resolve the matter and respond to the Complainant in writing in thirty days.

If the Complainant is not satisfied with the Agency's attempt to resolve the matter, the Complainant may appeal to the Commission for a determination of whether the Agency has complied with the terms of the final action.

Therefore, the claim before us is barred by res judicata and EEOC retains sole administrative authority over this dispute.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the claimant's right to bring an action in an appropriate United States court.