



UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

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In the Matter of

**Docket No. 05-05-OP**

**ROBERT,**

Overpayment Proceeding

Respondent.

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**DECISION**

This matter comes before me following an adverse decision denying [Respondent] a waiver on a purported overpayment of \$319.90. This overpayment stems from an alleged request by him to change his health benefit plan enrollment from self to self and family according to the U.S. Department of Education's (Department) January 24, 2005, collection action request. For the reasons stated below, it is concluded that [Respondent] does not owe a debt to the Department.

Under the Federal Employees Health Benefits Program, an employee may change his enrollment within a plan or to another plan during the open season. The open season occurs generally in the fall of the year. Other than during the open season, an employee may change his enrollment only if a qualifying life event has occurred. The procurement of health insurance coverage by a spouse due to employment in the private sector is a qualifying life event that permits a change in enrollment so long as the change is made within 60 days of the event. 5 C.F.R. §§ 892.101 and 892.208.

The Department's bill of collection of January 23, 2005, sets forth the basis of the collection as--

[the] employee changed health insurance plans to 105 [self and family] from 104 [self]. [D]eduction of \$112.88 should have been deducted from July 25, 2004 (pay period 17). Incorrect premium collected thru Oct. 02 (pp. 21).  
\$63.98 X 5 pp = \$319.90. [E]mployee owes \$319.90.

In the instant case, [Respondent] made no such request as it relates to pay periods 17 through 21 of the year 2004. He did request, however, just the opposite. On August 2, 2004, he filed Form 2809 requesting a change in his health insurance benefits coverage from self and family to self. Thus, the collection action on its face is predicated on an erroneous fact and cannot give rise to a debt.

The bill of collection is computer generated, including the basis therefor, and this accounts for the above erroneous statement. The actual basis is an assertion that a qualifying life event did not occur that permitted [Respondent] to change his enrollment from self and family to self.

On July 19, 2004, the spouse of [Respondent] began employment in the private sector with a firm that provided health insurance for her at no cost. Thereafter, [Respondent] submitted Form 2809 on August 2, 2004, in which he requested a change in enrollment consistent with this event, namely a change in enrollment from self and family to self.

As noted above, employment of a spouse that gains her health insurance coverage under a group plan is a qualifying life event and, therefore, [Respondent] was entitled to change his coverage. Hence, the actual basis for the bill of collection is also erroneous and, thus, there is no debt in this case. Accordingly, the bill of collection is cancelled.\*

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Allan C. Lewis  
Chief Administrative Law Judge

Dated: September 27, 2005

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\*In [Respondent]'s submission, he also requests a refund of the difference in premiums between self and family and self for subsequent pay periods 22 of 2004 through pay period 2 of 2005. While his claim may have merit, the tribunal lacks jurisdiction to order such a refund.