

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) DA Docket No. 09-0176
John H. McAfee,)
)
Petitioner)
)

Decision

Petitioner John H. McAfee, an employee of the United States Department of Agriculture, filed a petition on August 17, 2009 challenging USDA's Notice of Intent to Offset Salary that was issued on August 1, 2009, which was seeking to offset \$229.00 from Petitioner's bi-weekly paycheck until \$3145.60 had been repaid. I sustain the offset in full.

I conducted a telephone conference at which Petitioner represented himself, and USDA was represented by Alan Robinson, Chief, Employee Relations Branch, Agricultural Research Service. At the conference I asked each party to present me a brief position paper concerning the legitimacy of the debt and the offset action, and I scheduled the matter for a hearing before me on November 24, 2009. At Petitioner's request the hearing was rescheduled to December 17, 2009. Respondent submitted the Agency's position paper, while Petitioner submitted nothing. Mr. Robinson and Ms. Vickie Taber appeared on behalf of USDA, while Petitioner did not appear at the hearing he requested.

The hearing was conducted pursuant to the regulations at 7 C.F.R. § 3.77. Ms. Taber, a supervisory human relations specialist for the Agricultural Research service, testified that the debt arose after Petitioner was restored to the rolls of ARS after prematurely retiring—the Office of Personnel Management decided he was ineligible to retire at the time he originally elected to retire. When Petitioner was reinstated to the rolls, errors were made in calculating his deductions—even though he was still covered by health insurance, through Blue Cross Blue Shield—health insurance premiums were not deducted from his check. When the error was detected, Respondent verified with Blue Cross that Petitioner was covered during the entire time in question, and initiated the offset action to recoup the premiums due.

At no time has Petitioner offered any reason whatsoever for denying the offset request. He gave no reasons for contesting the offset, even though such a petition must “identify and explain with reasonable specificity and brevity the facts, evidence and witness which the employee believes support his or her position.” 7 C.F.R. § 3.75(b). He submitted no written information and did not appear in person, even though he requested the hearing.

Accordingly the overwhelming evidence supports the finding that Petitioner owes USDA \$3,145.60 and that \$229.00 should be deducted from each bi-weekly paycheck until the debt is paid in full.

Findings of Fact

1. Petitioner John H. McAfee is an employee of USDA’s Agricultural Research Service.
2. The USDA accidentally failed to deduct health insurance premiums in the amount of \$3,145.60 during a period when Petitioner was, in fact covered by health insurance.

Conclusion of Law

1. Petitioner John H. McAfee is indebted to the USDA in the amount of \$3,145.60.
2. All procedural requirements for Federal Salary Offset have been met.
3. Respondent is entitled to deduct \$229.00 from Petitioner's bi-weekly paycheck.

Order

For the foregoing reasons, the wages of the Petitioner, John H. McAfee, shall be subject to an offset deduction at the rate of \$229.00 per biweekly pay period.

Copies of this Decision and Order shall be served upon the parties by the Hearing Clerk's Office.

Done at Washington, D.C. this
22nd Day of December, 2009

MARC R. HILLSON
Chief Administrative Law Judge