

**U.S. Postal Service
Washington, DC 20260**

**Transmittal Letter
Issue 10, 4-30-87**

Employee and Labor Relations Manual (ELM)

A. Explanation

Issue 10 contains ELM revisions to chapters 3, 7, 8, 9, and the Appendix which were published in the *Postal Bulletin* between September 1983 and April 1987, except those which the originators specifically requested not be included. It also includes those reorganizational and other changes which originators have submitted to the ELM editor. Several organizations have decided not to submit their changes to chapters 1, 2, 4, 5, and 6 at this time. However, because an update to the ELM is so urgently needed, this partial revision is being published now. When the remaining organizational and policy changes are received, they will be published in a subsequent issue.

B. Instructions

1. Filing Instructions. File this transmittal letter in front of the transmittal letter for Issue 9. Follow the instructions in the table below:

Remove from previous issues:	Insert from Issue 10:
Contents	Contents
Chapter 3	Chapter 3
Chapter 7	Chapter 7
Chapter 8	Chapter 8
Chapter 9	Chapter 9
Appendix	Appendix

2. Checklist. After Issue 10 is filed, the ELM should consist of the following:

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Contents..... Issue 10	Subchapter 560..... Issue 8
Chapter 1..... Issue 3	Subchapter 570..... Issue 3
Chapter 2	Subchapter 580..... Issue 7
Subchapter 210..... Issue 3	Chapter 6
Subchapter 220..... Issue 3	Subchapter 610..... Issue 6
Subchapter 230..... Issue 3	Subchapter 620..... (not published)
Subchapter 240..... Issue 3	Subchapter 630..... Issue 9
Chapter 3..... Issue 10	Subchapter 640..... Issue 6
Chapter 4	Subchapter 650..... Issue 7
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Subchapter 420..... Issue 8	Subchapter 670..... Issue 3
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Subchapter 440..... Issue 9	Chapter 7..... Issue 10
Chapter 5	Chapter 8..... Issue 10
Subchapter 510..... Issue 7	Chapter 9..... Issue 10
Subchapter 520..... Issue 7	Appendix..... Issue 10
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worked and gross earnings during the back pay period is necessary.

b. If the employee was already working in a part-time job at the time of removal or suspension, the employer should include the employee's record of employment for the 6-month period prior to the removal or suspension.

c. If outside earnings were from self-employment, an affidavit from the claimant stating the amount earned during the back pay period. If such employment existed before the back pay period, the earnings must also be stated for 13 pay periods prior to the back pay period.

.423 A statement on whether or not the employee received any unemployment compensation. If so, state the amount received.

.424 A statement that the employee was ready and able to perform his job during the back pay period. If not, state inclusive dates not ready and able and the cause by which incapacitated or unavailable. The employee may request payment of sick or annual leave as appropriate and to his credit, for the period of incapacity or unavailability during the back pay period.

.425 If the back pay period is more than 1 year and no outside employment was obtained, make a statement giving the reasons why outside employment was not obtained and furnish a resume of the efforts to secure other employment during the back pay period.

.426 On health benefit and optional life insurance coverage, the employee should state whether he desires (a) to enroll in any plan or option, the same as a new employee, or (b) to have the prior enrollment reinstated retroactive to the date it was terminated.

437 Waiver of Claims for Erroneous Payment of Pay

437.1 Purpose

This part establishes procedures for (a) requesting a waiver of a claim made by the USPS against a current or former employee for the recovery of pay which was erroneously paid and (b) applying for a refund of money paid by or deducted from a current or former employee as a result of such a claim.

437.2 Definitions

.21 Pay. Pay means salary, wages, or compensation for services, including all forms of premium pay, holiday pay, or shift differentials, payment for leave, whether accumulated, accrued, or advanced, and severance pay. Pay does not include rental allowances or payment for travel, transportation, or relocation expenses.

.22 Employee. Throughout part 437, employee means a former employee as well as a current employee.

.23 Applicant. Applicant means an employee (current or former) or an individual acting on behalf of the employee who applies for a waiver of a claim for overpayment of pay.

.24 Installation Head. Installation head means the postmaster, manager, or director of field facilities or the department head (or designee) or Headquarters units where the employee is employed or was last employed.

437.3 Submission of Request

.31 Expiration Date. Waiver action may not be taken after the expiration of 3 years immediately following the date on which the erroneous payment of pay was discovered.

.32 Form 3074. The applicant requests a waiver of a claim or a refund of money paid as a result of a claim by submitting Form 3074, *Request for a Waiver of Claim for Erroneous Payment of Pay*, in triplicate to the installation head. The completed Form 3074 must contain:

a. Information sufficient to identify the claim for which the waiver is sought, including the amount of the claim, the period during which the erroneous payment occurred, and the nature of the erroneous payment.

b. A copy of the invoice and/or demand letter sent by the USPS, if available, or a statement setting forth the date the erroneous payment was discovered.

c. A statement of the circumstances which the applicant feels would justify a waiver of the claim by the USPS.

d. The dates and amount of any payments made by the employee in response to the claim.

437.4 Review by Installation Head

The installation head investigates the claim and writes a report of the investigation on the reverse side of the Form 3074. The report should include the following data and/or attachments:

a. All relevant facts or circumstances not described, or incorrectly described, on the Form 3074 by the applicant.

b. An explanation of the cause of the overpayment.

c. If available, a listing for each pay period in which an overpayment was made (1) of the employee's pay rate, (2) the gross amount due the employee, and (3) the gross amount that was actually paid.

d. A statement as to whether there is any indication of fraud, misrepresentation, fault, or lack of good faith on the part of anyone having an interest.

e. A recommendation for approval or disapproval of the claim based upon review of the facts and circumstances.

f. A copy of the invoice or notice to the employee of the amount requested to be repaid to the USPS should accompany the Form 3074. If neither of these items is available, a statement establishing the discovery date of the USPS claim should be included.

g. Copies of pertinent Forms 50, *Notifications of Personnel Action*; Forms 1303, *Salary Change Notices*; and any correspondence having a bearing on the claims should be obtained from the employee's official personnel folder and included with the Form 3074.

h. Any other information which would assist in making a determination of whether collection action to collect the claim would be against equity or good conscience and not be in the best interest of the USPS.

437.5 Review by Compensation Unit

The installation head forwards the Form 3074 to the appropriate compensation unit (i.e., the Regional Compensation Division or the Headquarters Office of Organizational Requirements) which:

- a. Reviews the file for accuracy and completeness.
- b. Completes part III of Form 3074.
- c. Adds any pertinent comments to the file.
- d. Forwards the entire file to the Director of the appropriate Postal Data Center (PDC).

437.6 Action by Postal Data Center (PDC)

.61 The PDC will waive the claim if it can determine from a review of the file that all of the following conditions are met:

a. The overpayment occurred through administration error of the USPS. Excluded from consideration for waiver of collection are overpayments resulting from errors in timekeeping, keypunching, machine processing of time cards or time credit, coding, and any typographical errors that are adjusted routinely in process of current operations.

b. Everyone having an interest in obtaining a waiver acted reasonably under the circumstances, without any indication of fraud, misrepresentation, fault, or lack of good faith.

c. Collection of the claim would be against equity and good conscience and would not be in the best interest of the USPS.

.62 If the claim is for more than \$1,000, the entire file is forwarded to the Finance Department for final adjudication.

437.7 Appeal of Disallowed Request

.71 **Appeal Procedure.** When a request for waiver has been partially or completely denied, the applicant may submit a written appeal to the PDC that denied

the claim within 15 days of receipt of the determination. The appeal letter should clearly indicate that the employee is appealing the disallowance of the waiver request, and set forth in detail the reasons why the employee believes the claim should be waived.

.72 **Final Decision.** The PDC will then forward the appeal, with the entire case file, to the General Manager, Accounting Division, Finance Department. The Finance Department will notify the PDC of its determination; the PDC will advise the employee concerned of the decision by Headquarters and, if necessary, will adjust its records. The determination of the General Manager, Accounting Division, Finance Department, is final.

438 Pay During Travel or Training

438.1 Pay During Travel

.11 Definitions

.111 *Travel Time* is time spent by an employee moving from one location to another during which no productive work is performed and excluding the normal meal time if it occurs during the period of travel.

.112 *Local Commuting Area* is the suburban area immediately surrounding the employee's official duty station and within a radius of 50 miles.

.12 Commuting To and From Work

.121 Commuting time before or after the regular work day between one's home and official duty station, or any other location within the local commuting area, is a normal incident of employment and is not compensable. It is not compensable regardless of whether the employee works at the same location all day or commutes home after the work day from a location different from the one where the work day started.

.122 Commuting time to and from work is also not compensable when an employee is called back to work after the completion of the regular work day, but such commuting time is compensable if the employee is called back to work at a location other than his regular work site.

.123 When an employee is employed to work on a permanent basis at more than one location in the same service day, the time spent commuting between the locations is not compensable travel time, provided there is a break in duty status between the work performed in the different locations. A break in duty status occurs when an employee is completely relieved from duty for a period of at least one hour that may be used for the employee's own purposes. This one hour or greater period must be in addition to the actual time spent in travel and the normal meal period, if the normal meal period occurs during the time interval be-