

Department of Defense (DoD) Nonappropriated Fund (NAF) Procedures to Remedy Post Allowance Pay Errors

General Information:

Post Allowance is a cost of living allowance that offsets the costs of goods and services at an overseas location as compared to costs in Washington, DC. Post Allowance is paid to eligible employees who are U.S. citizens, even though they may not be eligible for other allowances and differentials.

DoD confirmed that some U.S. citizens hired overseas in DoD NAF positions were not paid Post Allowance in accordance with DoD policy and regulations. To correct this situation, the Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R)), in a March 21, 2008, memo, directed the NAF employers to begin paying Post Allowance to all eligible NAF employees hired overseas. By April 24, 2008, all NAF employers had started paying Post Allowance to all current eligible overseas NAF employees.

DoD NAF pay remedy claims procedures have been issued permitting current and former NAF employees to file claims for Post Allowance payments not paid for the period from December 1, 2001 to April 24, 2008. These procedures are being implemented by the Department of the Navy's Morale, Welfare, and Recreation activities and exchanges, the Department of the Air Force, and the Army and Air Force Exchange Service. The Department of the Army has consistently paid post allowance to NAF employees in compliance with DoD policy and therefore does not need to implement the pay remedy procedures.

Eligibility:

DoD policy provides Post Allowance to U.S. citizens in positions overseas, unless they are part-time, intermittent, or U.S. family member summer/winter hire employees. NAF employees who are U.S. citizens and working in a Regular Full time position as defined by the respective NAF employer meet the eligibility criteria. NAF employees working in positions in the Flexible employment category are not eligible. DoD policy does not distinguish between employees who are recruited from the United States and those who are hired overseas.

Pay Remedy Procedures:

Post Allowance pay remedy procedures have been issued to the NAF Components. The procedures are consistent with the six-year statute of

limitations for claims against the United States Government, and in accordance with DoD Directive 5515.6, "Processing Claims Arising of Operations of Nonappropriated Fund Activities," October 25, 2004 (found at <http://www.dtic.mil/whs/directives/corres/pdf/551506p.pdf>). The pay remedy procedures only cover claims for Post Allowance earned from December 1, 2001 to April 24, 2008.

Each NAF Component is responsible for processing and adjudicating Post Allowance claims filed by their respective current and former employees. Current and former employees must provide relevant documentation as required by the respective NAF Component to adjudicate a claim. Employees must establish their eligibility for Post Allowance at the time of employment by a preponderance of the evidence, as determined by the respective NAF component.

Current employees who are also former employees of another NAF Component and eligible for Post Allowance payments from both the current and former employer are required to complete claim forms with each employer, i.e., one to be filed with the current employer, and one to be filed with the former NAF employer. Similarly, former employees of two or more NAF components should file separate claims with the relevant NAF employers covering each separate period of employment. Employees who file claims with two or more NAF employers must report this fact to each of the employers, and the periods of employment covered by each separate claim.

Calculation of Post Allowance Owed:

To calculate the amount of Post Allowance owed to a current or former employee, NAF employers must have the information necessary to determine the individual's dates of employment, annual rates of pay during the employment period(s), the overseas employment location, and whether there are eligible family members being claimed as dependents.

For the purpose of calculating the Post Allowance owed, NAF employers shall use the Department of State Standardized Regulations (DSSR) 920 Post Classification and Payment Tables.

Post Allowances by location can be found at http://aoprals.state.gov/Web920/location.asp?menu_id=95. Post Allowance rates are subject to change on a regular basis; however, the DSSR website lists all bi-weekly rates, by location, dating back prior to December 2001 at http://aoprals.state.gov/content.asp?content_id=216&menu_id=95

Upon matching the employees' dates of employment, and annual rates of pay with the Post Allowance location and bi-weekly rates, employers shall calculate Post Allowance remedial payment using the Post Allowance payment tables for six family sizes. The Post Allowance payment tables for six family sizes are included in Section 229.1, and can be found at:

<http://aoprals.state.gov/content/documents/DSSR229Paymenttables.pdf>

The calculation must include eligible family members, as defined in the DSSR's definition of "Family" in Section 040m. Post Allowances shall be computed and paid at annual rates, divided by the number of days in the calendar year to obtain a daily rate (counting 1/2 cent and over as a whole cent); multiplying the daily rate by 14 to obtain a biweekly rate; and multiplying the daily rate by the number of days involved to obtain the rate for any other period. The rate for any split pay period at the end of a calendar year shall be computed at the daily rate applicable on the first day of that pay period.

A current or former employee who, during the period of Post Allowance eligibility, was the spouse of a military member who received a military cost of living allowance at the "with family" rate receives Post Allowance remedial payments calculated at the "without family" rate. The DSSR's definition of "Family" in Section 040m, does not include a spouse who is receiving a similar allowance (which would include a military COLA).

Post Allowance payments for a current or former employee who, during the period of Post Allowance eligibility, was included in the "with family" Post Allowance rate received by a spouse of a civilian Federal Government employee will be offset by the amount associated with inclusion of the civilian employee. This is consistent with Section 226.1 of the DSSR which provides that married civilian employees who are both entitled to a Post Allowance each receive Post Allowance at the one person rate. Determining the offset requires a calculation of what the employee would have received at the one person rate and then subtracting the amount the civilian spouse received for including the employee as a dependent. The difference is the amount of Post Allowance owed to the NAF employee.

If the NAF employee's dependents were included in a military spouse's COLA, or a civilian spouse's Post Allowance, those dependents may not be included in the determination of the Post Allowance owed to the NAF employee.

The Back Pay Act, 5 U.S.C. § 5596 does not extend to these types of claims for Post Allowance by NAF employees; therefore, interest on the claims shall not be paid.

Required Documentation:

Current and former employees must provide relevant documentation as required by the respective NAF Component to adjudicate a claim. The primary documents that NAF Components shall accept to support evidence of Post Allowance remedial payment eligibility are NAF Official Personnel Actions depicting:

1. Employee name
2. Employing activity
3. Citizenship
4. Employment category (i.e., regular full time)
5. Dates of employment (e.g., date of hire/date of separation, date of change in employment category, pay changes).

Other relevant documentation that may be acceptable for proof of eligibility for Post Allowance remedial payments include:

1. Payroll records
2. W-2's and/or tax returns
3. Time and attendance cards/sheets
4. Official schedules
5. Leave and earning statements

Claims:

Component specific procedures and instructions on how and where to file claims, documentation required for both current and former employees, and an appeal process can be obtained by clicking on the respective NAF Component link provided below:

United States Marine Corps:

<http://www.usmc-mccs.org/>

Commander, Navy Installation Command:

<http://www/mwr.navy.mil>

Navy Exchange Service Command:

<https://www.navy-nex.com>

Department of the Air Force:

Website is forthcoming

Army and Air Force Exchange Service:
<http://www.aafes.com/allowance/>

A NAF employer's remedial payment of a claim under this process that is accepted by an employee shall be deemed to be correct and to have fully remedied any pay error with respect to Post Allowance for the period of time covered by this guidance from that NAF employer. The employee may not file another claim for Post Allowance earned from that employer during such a time period through any other process or forum.

Notification of Claims Status and Appeals Process:

Components shall notify claimants of receipt of submitted claims. If a claim as first submitted is not sufficiently substantiated, the employee will be notified and the notification will include a description of the deficiency, specifying any missing documents required to establish eligibility, and provide a reasonable deadline for receipt of resubmission with additional documentation. The notification shall also clearly state that if the additional information is not received by a certain date, the claim will be deemed to have been denied. Components should also notify claimants when their claim has been denied.

A current employee shall have a right to present complaints and grievances to management and to request personal relief in matters relating to Post Allowance claims covered by the process implementing this guidance through the Negotiated Grievance Process or the Administrative Grievance Process, as appropriate. Former employees shall also have access to an appeals process relative to Post Allowance claims filed for period of employment occurring between December 1, 2001 through April 24, 2008. Information on Component appeals processes may be found on the Component websites listed above.