

Decision in case 642/2018/TM on the European Commission's refusal to reimburse certain medical expenses to a staff member

Decision

Case 642/2018/TM - Opened on 23/05/2018 - Decision on 23/05/2018 - Institution concerned European Commission (No maladministration found) |

The case concerned how the European Commission dealt with a claim for the reimbursement of medical expenses from a staff member. The Commission refused to reimburse certain expenses claimed under its health insurance scheme by the staff member, even after he made an official administrative complaint, as provided for under the EU's Staff Regulations.

The Ombudsman's inquiry into the matter did not reveal any maladministration by the Commission.

The complaint to the European Commission

1. The complainant is a permanent civil servant with the Commission. From 1 September 2010 to 31 August 2013, he was seconded to the United Nations in New York.
2. The complainant submitted claims to the Commission's Joint Sickness Insurance Scheme (JSIS) [1] for the reimbursement of medical expenses incurred from 2009 to 2013.
3. On 30 August 2013, the Commission's Paymaster Office [2] (PMO) informed the complainant that it would only partially reimburse the medical expenses claimed, and provided explanations for those expenses it refused to reimburse.
4. The complainant claimed that he did not receive this letter, as it was sent to an incorrect postal address. After finding out about the decision, on 25 August 2014, the complainant challenged it, and provided a detailed list of the medical expenses for which he was claiming reimbursement, as well as some clarifications and supporting documents.
5. On 20 October 2014, the PMO informed the complainant that following his comments, it had revised its decision and made additional reimbursements. The PMO indicated that it could not reimburse the outstanding claims, as the supporting documents provided by the complainant



were copies and not originals as required under the applicable rules [3] .

6. There was extensive correspondence between the complainant and the PMO over the subsequent years.

7. On 11 July 2017, the complainant sent an email to the PMO requesting it to solve the issue.

8. On 14 July 2017, the PMO replied to the complainant that *“all medical expenses concerned were dated more than eighteen months ago and that no revision could be made”*. The letter pointed out that *“since October 2014 the [complainant’s] requests were systematically replied to, and that revisions had been done whenever possible”*.

9. On 10 August 2017, the complainant made a formal administrative complaint [4] against the PMO’s decision not to further review the outstanding claims.

10. The complainant argued that he always submitted his reimbursement requests on time and was always available to provide additional information and supporting documents. He claimed that the PMO had misunderstood the descriptions of some of the medical expenses due to unfamiliarity with the US system. He stated that, despite the fact that he updated his contact details and postal address in the Commission’s online system for managing personnel files (SYSPER), the PMO had sent letters to an incorrect postal address. He was thus unable to react in a timely manner and to address the questions raised by the PMO. The complainant also claimed that he did not have access to the online system for managing claims and other matters with JSIS (JSIS Online), and that this remained unresolved despite numerous requests for assistance. As such, the complainant had difficulty contacting the PMO. The complainant stated that, on 3 March 2017, he had travelled to Brussels to settle the matter with the PMO.

The European Commission’s response to the complainant

11. On 30 November 2017, the Commission sent the complainant its decision on his complaint.

12. While the Commission found that the administrative complaint was time-barred, as it related to events that had occurred “several years” previously, it nonetheless examined the substance of the complaint.

13. The Commission relied on *“the principle established by settled case-law, according to which provisions with a financial implication have to be interpreted strictly”*.

14. The Commission examined each outstanding claim individually and found that: (i) the original versions of some documents were not provided or provided only after the 18-month deadline had expired, without justification for the delay; (ii) some documents were missing essential information, and thus failed to meet the required criteria for supporting documents; (iii) the cost incurred for one item was above the ceiling for reimbursement.



15. Regarding the complainant's argument that the PMO used an incorrect postal address, the Commission stated that *"it clearly emerges from the file documents that the PMO sent letters or electronic mails to [the complainant's] addresses he had himself indicated"*.

16. The Commission argued that, regardless of whether or not the complainant had access to JSIS Online, the extensive correspondence between him and the PMO indicated that he was able to communicate with the PMO by e-mail.

The European Ombudsman's finding

17. At the outset, it should be noted that despite the fact that the complainant filed his administrative complaint four years after the PMO's relevant decision of 30 August 2013, while the deadline to challenge a decision under Article 90 of the Staff Regulations is three months, the Commission assessed it in substance in accordance with the principle of duty of care.

18. The Ombudsman notes that, as mentioned by the Commission in its decision, there was extensive correspondence between the complainant and the PMO from 2014 to 2017. As such, while the complainant may have had difficulty accessing JSIS Online, he was able to communicate with the PMO.

19. Furthermore, the Ombudsman considers that the PMO provided a detailed and reasonable explanation in its replies as to why it had decided not to reimburse the expenses in question. The Commission assessed the complainant's claims in the light of the applicable rules and procedures. It also explained to the complainant that, according to EU case-law, the Commission is obliged to ensure the EU's financial rules are interpreted and applied strictly. [5] The complainant did not present any evidence to suggest that the Commission made an error of assessment. The Commission provided sufficient reasons for its final decision not to fully reimburse the complainant.

20. Based on the above, the Ombudsman considers that the examination of the complaint has not disclosed maladministration by the Commission. [6]

Marta Hirsch-Ziembińska

Head of Inquiries and ICT - Unit 1

Strasbourg, 23/05/2018

[1] JSIS is the sickness insurance scheme of the European Union. More information is available



here: http://ec.europa.eu/pmo/info.sickinsurance_en.htm [Link]

[2] The PMO administers, calculates and pays the financial entitlements of the staff of the European Commission.

[3] Article 28 of the Joint Rules on sickness insurance for officials of the European Communities and Commission Decision C(2007)3195 laying down general implementing provisions for the reimbursement of medical expenses.

[4] Under Article 90(2) of Regulation No 31 (EEC), 11 (EAEC), laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (the Staff Regulations).

[5] Judgment in Case F-134/06 Bordini v Commission, paragraph 90 states: *"Il convient par ailleurs de rappeler que, selon une jurisprudence constante, les dispositions ouvrant droit à des prestations financières doivent être interprétées strictement (arrêt Lebedef e.a./Commission, précité, point 38)."*

[6] This complaint has been dealt with under delegated case handling, in accordance with Article 11 of the [Decision of the European Ombudsman adopting Implementing Provisions](#) [Link]