

Date: June 3, 2004
Claimant: [name]
File Number: 04-0020
OPM Contact: Deborah Y. McKissick

The U.S. Department of Homeland Security, Customs and Border Protection requested that the Office of Personnel Management (OPM) provide guidance on distributing the unpaid compensation of [decedent]. The agency wants to know whether the remaining beneficiaries may receive the share of the unpaid compensation that otherwise would have been distributed to the decedent's mother. OPM received the claim on March 24, 2004.

On December 12, 1988, the decedent signed the Unpaid Compensation of Deceased Civilian Employee form (SF-1152), designating his wife, daughter, mother, and two sisters as beneficiaries. The decedent specified that his wife, daughter and mother would receive one-fourth of his unpaid compensation and his two sisters each would receive one-eighth of his unpaid compensation.

On April 24, 2000, the decedent died. His wife, daughter, mother, and two sisters survived him. However, the decedent's mother died on May 9, 2000, before she could file for her share of the unpaid compensation. The agency believes the unpaid compensation should be equally distributed among the remaining beneficiaries because an executor was not appointed to settle the Estate of the mother.

Section 5582 of title 5, United States Code (U.S.C.) governs settlement of the accounts of deceased employees of the Federal Government. Section 5582 provides in part:

(b) In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death... and the payment bars recovery by another person of amounts so paid.

OPM regulations at 5 CFR 178.203(d) states the requirements for executing and filing a designation of beneficiary form, specifying that:

The Standard Form 1152 must be executed in duplicate by the employee and filed with the employing agency where the proper officer will sign it and insert the date of receipt in the space provided on each part, file the original, and return the duplicate to the employee.

The SF-1152 specifies that:

I hereby direct unless otherwise indicated above, that, if more than one beneficiary is named, the share for any deceased beneficiary who may predecease me shall be distributed equally among the surviving beneficiaries, or entirely to the survivor.

OPM does not conduct adversary hearings, but settles claims on the basis of the evidence submitted by the claimant and the written record submitted by the government agency involved in the claim. Five CFR 178.105; *Matter of John B. Tucker*, B-215346, March 29, 1985.

In designating more than one beneficiary and signing the SF-1152, an employee acknowledges the possibility that the share of one or more beneficiaries might be distributed to the other beneficiary or beneficiaries. Therefore, the mother's one-fourth share of the unpaid compensation should be equally distributed to his wife, daughter, and two sisters.

This settlement is final. No further administrative review is available within the Office of Personnel Management. Nothing in this settlement limits the claimant's right to bring an action in an appropriate United States Court.