

**Disputed Claim for Unpaid Compensation Decision
Under section 3702 of title 31, United States Code**

Decedent: [name]

Organization: Social Security Administration
Birmingham, Alabama

Claim: Disputed Claim for Compensation Due
a Deceased Employee

Agency decision: N/A

OPM decision: Denied

OPM file number: 07-0033

/s/ for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

7/10/2007

Date

This action is in response to a disputed claim submitted on behalf of the claimants for unpaid compensation due a deceased employee, [name], for a determination of which claimants are properly entitled to payment. The request was forwarded to the U.S. Office of Personnel Management (OPM) by U.S. Department of the Interior's National Business Center (NBC) in what appears to be its capacity as providing authorized certifying officer services to the decedent's employing agency, the Social Security Administration. In its October 26, 2004, letter NBC enclosed copies of the following documents:

Standard Form (SF) 1153, Claim for Compensation of Deceased Employee, signed and dated by three adults [names] identifying themselves as children of the decedent, and signed and dated by two witnesses.

SF 1153, Claim for Compensation of Deceased Employee, signed and dated by [name], identifying himself as husband of the decedent, and signed and dated by two witnesses.

Alabama Certificate of Death of the employee, with date of death March 23, 2004, showing her as divorced.

Alabama Marriage License dated January 3, 1975, evidencing matrimony between [husband's name] and [decedent].

SF 2809, Federal Employees Health Benefits Program, completed and dated December 5, 1986, by the decedent, identifying herself as married, listing [husband's name] as her spouse, and listing the two female children in the previously cited SF 1153.

SF 2809, Federal Employees Health Benefits Program, completed and dated February 14, 2000, by the decedent, showing herself as not married.

NBC believes the case may require a determination by OPM as to whether the decedent's three adult children or the person claiming to be the surviving spouse are entitled to payment as described in 5 CFR § 178.207(b)(2) since the decedent had no SF 1152, Designation of Beneficiary, in her official personnel folder (OPF). Based on the order of payment precedence in 5 CFR § 178.204, NBC states: "it appears, without evidence of a divorce, the gentlemen, who has provided a copy of a marriage license, may be entitled to payment of 100% of the unpaid compensation."

We apply the same procedures as our predecessor agency in the settlement of disputed claims. As stated in 4 CFR § 33.10 Applicability of general procedures:

When not in conflict with this part, the provisions of part 31 of this subchapter relating to procedures applicable to claims generally, are also applicable to the settlement of accounts of deceased civilian officers and employees.

Consistent with 4 CFR § 33.10, 5 CFR § 107.105 places the burden of proof on the claimant to establish his/her right to payment, and our decision is based on the written submissions of the parties. In the instant case, we will assume the two SF 2809's were in the decedent's OPF. While [husband's name] submitted the Alabama Marriage License, it is not clear who submitted the Alabama Certificate of Death. There is no information in the record showing what efforts, if any, have been made to ascertain whether the decedent was divorced from [husband's name],

which is determinative in this case. That is, since no written designation of beneficiary or beneficiaries was made by the decedent, the order of payment precedence in 5 U.S.C. 5582(b) mandates payment, in this case, “to the... widower.”

As discussed in the Principles of Federal Appropriations Law, Second Edition, Volume III, November 1994 (GAO/OGC-94-33) in settling claim:

The guiding principle is the rather common-sense proposition that payment should be made to the person or entity entitled to receive it. Common sense in this instance is reinforced by 31 U.S.C. § 3322(a), which instructs disbursing officers to draw public money from the Treasury only “payable to persons to whom payment is to be made.”...The government’s motives are not purely benevolent. To quote a phrase used in innumerable GAO decisions, the government’s objective in making payment is to secure a “good acquittance” or a “valid acquittance” for the United States. 62Comp. Gen. 302, 307 (1983); 24 Comp. Gen. 261, 262 (1944). This means the assurance that the payment is discharging the government’s obligation and that the government will not find itself embroiled in controversy between competing claimants with the resulting possibility of being required to pay twice.

The written record, therefore, is insufficient for OPM to issue a settlement on this claim at the present time. See B-131346, November 7, 1957 and B-207143, December 26, 1984. OPM will be pleased to further consider this claim upon receipt of evidence sufficient to ensure the objective to secure a good acquittance for the United States.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the parties’ right to bring an action in an appropriate United States Court.