



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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PLM II

B-195893

October 31, 1979

The Honorable Frank C. Carlucci  
Deputy Director  
Central Intelligence Agency

AGC 00210

Dear Mr. Carlucci:

This is in further response to your letter dated August 23, 1979, concerning ~~review by the General Accounting Office~~ of determinations of benefit payments made under the Central Intelligence Agency Retirement and Disability System (CIARDS).

Specifically, you ask:

1. Does Section 201 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, 50 USC § 403, note (CIARDS Act), preclude your reviewing the otherwise final and conclusive determinations of the Director of Central Intelligence with respect to the propriety of benefit payments?

2. If you have jurisdiction to rule on this issue, is it appropriate, under the circumstances set forth below, for CIARDS to initiate payment of survivor annuity benefits on behalf of the claimant?

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, 50 U.S.C. 403 note (1976), authorizes a special retirement system, CIARDS, for certain officers and employees of the Agency whose duties are hazardous or involve exceptional security requirements. Section 201 of the Act specifies that the Director of Central Intelligence shall administer that retirement system, and provides in pertinent part as follows with respect to his administrative determinations:

"\* \* \* In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of \* \* \* the National Security Act of 1947 \* \* \* that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of the Administrative Procedure Act \* \* \* or any other provisions of law, any determinations by the Director authorized by the provisions of this Act shall be deemed to be final and conclusive and not subject to review by any court."

Congress included this provision because it was believed the facts pertinent to the Director's determinations could not ordinarily be publicly disclosed. See Senate Report No. 1589, September 21, 1964.

It is our view that the intended purpose of the specific provision of law quoted above is to render determinations made by the Director of Central Intelligence concerning eligibility for CIARD benefit payments, "final and conclusive" and not subject to further review by this Office. Thus, we have no jurisdiction to review any determination made by the Director of Central Intelligence concerning eligibility for CIARD annuity benefits, notwithstanding our general statutory responsibilities under 31 U.S.C. 71 et seq. (1976) to administratively settle monetary claims involving the United States and to rule on questions concerning the expenditure of public funds. Compare 56 Comp. Gen. 587, 591 (1977), and 41 Comp. Gen. 384, 386 (1961), concerning 38 U.S.C. 211(a) granting similar finality to decisions of the Veterans Administration.

In view of the answer to question 1, no reply to the question 2 is deemed to be necessary or appropriate.

Sincerely yours,



For the Comptroller General  
of the United States