



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Raymond H. Hanrahan (Deceased)

File: B-262112

Date: March 6, 1996

DIGEST

1. A Standard Form 1152 designation of beneficiary executed by an employee disposing of his unpaid compensation due at his death was received in the agency field office before the date of his death and sent to agency headquarters. The employee died on the same day the form was received in agency headquarters, but possibly before it was "filed" as specified in subsections 19.1 and 19.3 of title 4, GAO Policy and Procedures Manual for Guidance of Federal Agencies. See 4 C.F.R. § 33.5 (1995). Those instructions are directed at agencies and do not create a requirement that must be met by an employee in addition to that contained in 5 U.S.C. § 5582(b), that the designation must be "received" by the agency before his death. Since the completed designation of beneficiary was timely received in the agency before he died, it effectively disposes of his unpaid compensation.

2. An employee designated a nonfamily individual to receive his unpaid compensation due at his death. His former wife and a son challenged the validity of that designation following his death, contending that he was incompetent to designate because he was heavily sedated during the last few weeks before he died. The former wife also claims that their divorce decree grants her at least one-half of his unpaid compensation. However, federal law, not state law, controls disposition of unpaid compensation due a federal employee. Since the completed designation form was executed by the employee more than 2 months before he died and was timely received by the agency as required by 5 U.S.C. § 5582(b), the individual designated on that form is entitled to be paid the unpaid compensation due.

DECISION

This decision responds to a request from the General Counsel of the Federal Bureau of Investigation (FBI), U.S. Department of Justice.¹ The issue is whether the Standard Form 1152 (SF 1152), Designation of Beneficiary, executed by Mr. Raymond H. Hanrahan validly passed his unpaid compensation due at his death

¹Howard M. Shapiro, Esquire.

to the individual named as his beneficiary. Payment may be made to the designated beneficiary for the following reasons.

BACKGROUND

Mr. Raymond H. Hanrahan, a special agent of the FBI stationed in Milwaukee, Wisconsin, executed an SF 1152, Designation of Beneficiary on November 28, 1994, naming Ms. Barbara Hastings as beneficiary for his unpaid compensation. This form was not forwarded to FBI headquarters by the Milwaukee field office until February 1995, where it was received by the FBI Employee Benefits Unit for filing on February 3, 1995. The Employee Benefits Unit noted its receipt but returned the form to the field office because the form lacked Mr. Hanrahan's home address. The completed form was immediately returned to FBI headquarters and received for filing by the Employee Benefits Unit on February 8, 1995, the date that Mr. Hanrahan died.²

Mr. Hanrahan's former wife and one of his sons have contested the payment of any benefits to Ms. Hastings. They contend that Mr. Hanrahan's designations of beneficiary for unpaid compensation and life insurance were invalid. They argue that because he was heavily sedated during the last several weeks before he died, he was not competent to effect beneficiary designations. Therefore, Mr. Hanrahan's former wife contends that she is entitled to at least one-half of his unpaid compensation from his employment with the FBI based on the terms of their 1986 Judgement of Divorce and that his children are entitled to the insurance proceeds.³

In addition, on the issue of the validity of Mr. Hanrahan's designation of beneficiary, the FBI asks whether the "filing" of the beneficiary designation form is necessary to effect a beneficiary change, or whether mere receipt by FBI headquarters or even Mr. Hanrahan's local FBI office is sufficient. The FBI notes that the statute governing designations of beneficiary, 5 U.S.C. § 5582 (1994), requires that the beneficiary form be "received" in the agency before the employee's death, but that the GAO Policy and Procedures Manual for Guidance of Federal Agencies does not use the word "received," as used in the statute. Rather, the GAO Manual specifies

²Mr. Hanrahan and his former spouse, Ms. Patricia Weber-Hanrahan, were divorced in 1986 and he was not married when he died.

³The GAO does not have jurisdiction over life insurance proceeds. Designations of beneficiaries for unpaid compensation under 5 U.S.C. § 5582, are separate and distinct from designations of beneficiaries for Federal Employees Group Life Insurance (FEGLI) purposes under 5 U.S.C. § 8705 (1994). See Mary M. Leach, B-178403, June 5, 1973.

that the completed beneficiary form must be "filed" with the employing agency.⁴ The FBI says that the beneficiary form was clearly "received" by its field office and headquarters before Mr. Hanrahan died on February 8, 1995, but it may not have been "filed" in the FBI Employee Benefits Unit for up to 15 minutes following his death.⁵ The FBI asks whether the two words are to be given different meanings, suggesting that if there is a difference, the filing requirement may not have been met in Mr. Hanrahan's case.

OPINION

The statute governing settlement of accounts of deceased employees of the federal government is contained in 5 U.S.C. § 5582(b) (1994), which 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, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

"First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency before his death. . . ."

The filing requirement referred to by the FBI and contained in section 19 of title 4 of the GAO Policy and Procedures Manual for the Guidance of Federal Agencies is authorized by 5 U.S.C. § 5582 (1994) and 4 C.F.R. § 33.5 (1995). Subsection 19.1 provides, in part, that such forms are to be "filed in accordance with . . . these procedures," and subsection 19.3 provides that the forms are to be "filed with the employing agency" and are to be "filed in the particular office which authorizes payment of the employee's compensation, or such other office as the head of the agency may direct."

Those instructions are directed to agencies, not to employees. Their purpose is to insure that, to the maximum extent possible, all employing agencies maintain completed designation of beneficiary forms in a specific location after the agency receives them so that they easily can be retrieved should the need arise. It is our view that, since the word "filed" is directed at the employing agencies, the GAO Manual does not create a requirement that must be met by an employee in addition

⁴Subsection 19.3 of title 4, GAO Policy and Procedures Manual for Guidance of Federal Agencies.

⁵Mr. Hanrahan died at 3:15 p.m., central time. The clerk responsible for filing these forms left work that day at 4:30 p.m., eastern time.

to that contained in 5 U.S.C. § 5582(b) that the written designation of beneficiary must be received by the agency before his death.

As to what constituted "receipt" by the agency in this case, the FBI field office to which Mr. Hanrahan was assigned received his SF 1152 form designating Ms. Barbara Hastings as his beneficiary well before the date of his death. The field office then sent it to FBI headquarters for filing where it was received on February 3, 1994. Thus, the written designation of beneficiary was timely received before Mr. Hanrahan's death on February 8, 1994. The return of the document to the FBI field office because Mr. Hanrahan's SF 1152 did not contain his home address and the possibility that it may not have been "filed" in the FBI Employee Benefits Unit before Mr. Hanrahan died is of no legal significance. There is nothing in 5 U.S.C. § 5582 which requires that the form contain the designating employee's home address or that the form must be received in the headquarters of the employing agency before the employee dies in order to make it effective. If the agency receives the signed designation of beneficiary form before the employee dies, the requirement of the statute has been met.

As to the validity of Mr. Hanrahan's SF 1152, we note that the document was clear and complete on its face. It properly identified Mr. Hanrahan as the designating employee, it designated Barbara Y. Hastings to receive 100 percent of Mr. Hanrahan's unpaid compensation due at his death, and Mr. Hanrahan's signature was witnessed by two persons. Since it was executed by him on November 28, 1994, more than 2 months prior to his death, the allegation that he was not competent to designate a beneficiary to receive his unpaid compensation because he was heavily sedated during the last several weeks before he died is not probative of the validity of the designation he made at the earlier time.

We have held that if a deceased federal employee has designated one or more beneficiaries to receive his/her unpaid compensation, payment may not be authorized to a person other than those specifically designated.⁶ In this regard, the beneficiary designated on the SF 1152 need not be related to the deceased employee in order to be entitled to any sums due the deceased employee as compensation from the government.⁷ Further, disposition of unpaid compensation or other amounts payable under federal law is governed by federal statute and regulation, not by the laws or court orders of the state of domicile or other jurisdictions, including divorce decrees. In decision Chester F. Dean, B-227728, Mar. 23, 1988, we addressed the issue of conflicting claims for unpaid compensation

⁶David H. Lambert, B-244826, Dec. 12, 1991, citing to Chester F. Dean, B-227728, Mar. 23, 1988.

⁷Joseph J. White, B-182519, Apr. 2, 1975.

similar to that involved in Mr. Hanrahan's case. The dispute in Dean was between the deceased employee's widow, who had filed for divorce and whose claim was based on an interim order issued by a state court prohibiting the employee from taking any action to alter their existing community property rights, and the deceased employee's father, who was named as beneficiary for that compensation. Citing to Ridgeway v. Ridgeway, 454 U.S. 46 (1981), we held that disposition of unpaid compensation due a federal employee is governed exclusively by federal law. Since the employee in that case had designated his father as his beneficiary under 5 U.S.C. § 5582, the father, not the widow, was entitled to the employee's unpaid compensation.

In the present case, the designation of beneficiary form executed by Mr. Hanrahan and dated November 28, 1994, named Ms. Barbara Y. Hastings as beneficiary of his unpaid compensation. Since it was received by the FBI prior to his death, Ms. Hastings is entitled to be paid the amount found due and the claim of Mr. Hanrahan's former spouse is denied.

/s/Seymour Efros
for Robert P. Murphy
General Counsel