

DECISION

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

60474

FILE: B-184978

DATE: FEB 4 1976

MATTER OF: Mr. John Feckanin

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99149

DIGEST: Former member who was awarded Combat Infantryman Badge on August 26, 1944, is not entitled to combat infantryman badge pay for period prior to August 26, 1944, since regulations implementing act of June 30, 1944, ch. 335, 58 Stat. 648, provided that the effective date for such pay was the date of order announcing award of that badge. Since former member received such pay from August 26, 1944, until his date of discharge, he has received his full entitlement under that law.

This action is in response to a letter dated June 28, 1975, from former Private John Feckanin, USA, Service No. 35 008 883, 9241 Oxford Trail, Brecksville, Ohio 44141, in effect appealing our Claims Division settlement dated October 13, 1959, which disallowed his claim for combat infantryman badge pay for periods prior to August 26, 1944, incident to his service in the United States Army.

The record indicates that Mr. Feckanin served in the Guadalcanal Campaign. By Headquarters 147th Infantry, General Orders No. 4, dated August 26, 1944, Mr. Feckanin was awarded the Combat Infantryman Badge for having displayed exemplary conduct in action against the enemy during that campaign. The record also shows that Mr. Feckanin received combat infantryman badge pay from August 26, 1944, through October 5, 1945, the date of his discharge from the United States Army.

Mr. Feckanin filed a claim with the Army dated October 10, 1945, for combat infantryman badge pay for the period of January through July 1943. That claim was referred to our Claims Division for direct settlement. By letter dated March 22, 1946, to Mr. Feckanin, the Claims Division requested further information from him concerning his claim in order that the claim could be fully considered. No response was received from that letter and no further action was taken on the claim.

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By transmittal form dated August 21, 1959, the Army Finance Center forwarded to our Claims Division a claim for "combat pay in Guadalcanal" dated June 9, 1959, by Mr. Feckanin. By Claims Division settlement dated October 13, 1959, Mr. Feckanin's claim was disallowed because official records showed that he was awarded the Combat Infantryman Badge on August 26, 1944, that such award was not retroactive in effect, and that an examination of his pay accounts for the period January 1, 1942, through the date of his discharge, October 5, 1945, revealed that he was correctly paid for the entire period, including combat infantryman badge pay from August 26, 1944, through date of discharge.

Payment of the combat infantryman badge pay provided by the act of June 30, 1944, ch. 335, 58 Stat. 648, was, by the terms of that act, restricted to persons entitled to wear the Combat Infantryman Badge, under regulations prescribed by the Secretary of War, when they were entitled to wear such badge. Applicable regulations were contained in War Department Circulars No. 271, July 3, 1944, and No. 408, October 17, 1944. Paragraphs 4 and 12d of Circular No. 408 provided that the effective date of a combat infantryman badge award would be the date of the order announcing the award unless an earlier specific date was stated in the order and that the effective date for additional pay would be the date of the order, or an earlier date if specifically stated therein, but that in no case would additional pay accrue for any period before January 1, 1944, the effective date of the act authorizing such pay. The act of June 30, 1944, supra, was treated under the above-cited implementing regulations as permitting the exercise of discretionary authority by the Department of the Army in establishing an effective date for purposes of such pay.

Since Mr. Feckanin was awarded the Combat Infantryman Badge by order dated August 26, 1944, and since no other specific date was mentioned in that order, Mr. Feckanin was entitled to receive combat infantryman badge pay effective August 26, 1944, and, therefore, a claim for any period prior to that date must be disallowed. Since the record shows that Mr. Feckanin received such pay from that date until he was discharged, it appears that Mr. Feckanin received his full entitlement under the law.

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Accordingly, the settlement dated October 13, 1959, disallowing his claim is sustained.

R.F.KELLER

Deputy Comptroller General
of the United States