

DIGEST - L. Mil



DECISION

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

FILE: B-185711

DATE: MAR 31 1976

MATTER OF: Mrs.

DIGEST: In a case where erroneous overpayments of an annuity under Survivor Benefit Plan are made to member's widow and there is a showing of no fault by widow and that recovery would result in a financial hardship to her, waiver under 10 U.S.C. 1453 may be granted since collection in the circumstances would be against equity and good conscience.

This action is in response to a letter dated October 20, 1975 (file reference FINCN-T (Retired)), with enclosures, from the Acting Commanding Officer, United States Army Finance and Accounting Center, recommending waiver of recovery of \$1,055.79, representing annuity payments erroneously paid under the Survivor Benefit Plan (SBP) to Mrs. , widow of the late Master Sergeant , who died on September 3, 1974.

According to the submission, the member elected to provide SBP coverage for his wife on August 1, 1973. An annuity payable to the widow was established effective September 4, 1974, in the amount of \$171.48, less Social Security reduction of \$51.93. Thus, the widow was considered entitled to annuity payments totaling \$466.25 for the period September 4, 1974, through December 31, 1974. In addition to that payment, a check for \$680.66 was erroneously issued to her for the same period creating an overpayment for that amount.

The submission also states that while the Social Security reduction of \$51.93 was used in the establishment of the SBP annuity rate, additional information concerning the member's military earnings was later received and the reduction rate was corrected to \$96.11. Because of the higher Social Security reduction which should have been applied to all SBP payments, an additional indebtedness of \$393.13 was determined to exist for the period September 4, 1974, through May 31, 1975. As a result, Mrs. ' indebtedness was increased to \$1,073.79. It is also reported that a total of \$18 has been collected from the widow's annuity against this indebtedness leaving a balance of \$1,055.79.

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