



Comptroller General  
of the United States

Washington, D.C. 20548

142518

B-240780

October 17, 1990

The Honorable Bob Stump  
House of Representatives

Dear Mr. Stump:

This is in response to your letter of July 27, 1990 on behalf of Colonel [redacted], USAF, retired. Colonel [redacted] is concerned with the method used to compute the social security offset applicable to Survivor Benefit Plan (SBP) annuities when the widow or widower reaches age 62.

The SBP program, 10 U.S.C. §§ 1447-1455, was established by Congress on September 21, 1972, with the enactment of Public Law 92-425 as an income maintenance program for the surviving dependents of retirement-eligible service members. The social security offset requirement was a fundamental feature of the original legislation. The legislative history of the provision reflects that SBP annuities were designed to complement social security benefits. The Congress intended that the SBP annuity of a surviving spouse be reduced at age 62 when the spouse became eligible for social security survivor benefits.

Colonel [redacted] believes that it would be more beneficial and more equitable to compute the offset under a formula which considers a member's total social security covered earnings, both military and civilian, and then applies a percentage of the total to arrive at military covered earnings. For the following reasons it is our view that the law precludes the use of such a formula.

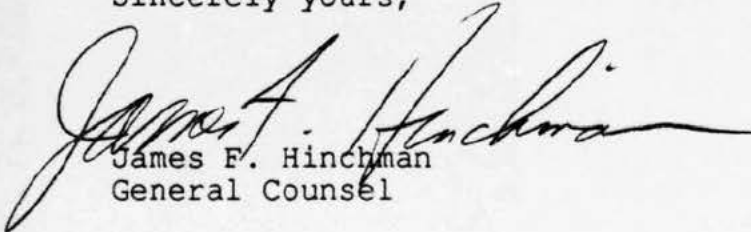
The question of how to compute the social security offset when both military and civilian earnings are involved was the subject of our decision 53 Comp. Gen. 733 (1974), copy enclosed. In that decision we concluded that only the military service covered by social security could be considered in computing the offset even though the member also had civilian earnings covered by social security. Our conclusion was based on the clear and unambiguous intent of Congress as expressed in the legislative history of this provision.

We note that the provision of law providing for the offset, 10 U.S.C. § 1451, was amended in 1985. In its current form the law provides that a beneficiary will receive 55 percent of the member's retired pay until the beneficiary reaches age 62, and then the payment is reduced to 35 percent rather than being reduced on the basis of the social security covered service of the member. The reduction for social security payments is now only utilized if it causes a more beneficial result in cases involving the survivors of service members who are eligible to participate in the SBP program on or before October 1, 1985. 10 U.S.C. § 1451(a)(1)(B).

The social security offset provision of the law requires that when a widow or widower becomes eligible for social security survivor benefits the Survivor Benefit Plan annuity be reduced under a formula set out in the law or to 40 percent of the monthly annuity whichever is the lower figure. 10 U.S.C. § 1451(e)(3). The offset is computed by using only the member's military service covered by social security and assuming the member lived to age 65.

We trust this is responsive to Colonel [redacted]'s request.

Sincerely yours,



James F. Hinchman  
General Counsel

Enclosure