



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## Decision

**Matter of:** Chester F. Dean - Deceased Federal Employees -  
Disposition of Unpaid Compensation  
**File:** B-227728  
**Date:** March 23, 1988

---

### DIGEST

The disposition of the unpaid compensation of a federal employee is governed exclusively by federal statute and regulation. Under federal law, entitlement to such unpaid compensation vests in the beneficiary designated by the employee, notwithstanding any competing claims that may be presented by others not so designated who claim entitlement on the basis of local laws or court orders. Hence, in the case of a Department of Energy employee who named his father as his beneficiary, the father became entitled to the unpaid compensation due the employee at the time of his death, rather than the employee's widow who claimed entitlement to the unpaid federal compensation on the basis of a state court order issued in divorce proceedings.

---

### DECISION

This action responds to a request for an advance decision concerning the unpaid compensation due a deceased employee of the Department of Energy.<sup>1/</sup> Conflicting claims for that unpaid compensation have been presented by the employee's father, who is the designated beneficiary, and the employee's widow, who was removed by the employee as the designated beneficiary allegedly in defiance of a state court order.

We conclude that the employee's father, as designated beneficiary, is the proper recipient of the unpaid compensation.

---

<sup>1/</sup> The request for an advance decision was submitted by George E. Burkett, Director, Special Accounts and Payroll Division, U.S. Department of Energy.

041646

## BACKGROUND

Chester F. Dean was an employee of the Department of Energy until his death on February 2, 1987. Originally, he had designated his wife, Mary Ann Dean, as his beneficiary for any unpaid compensation owing in case he should die while still employed by the government. However, on October 16, 1986, he executed a standard government form (SF-1152) changing the beneficiary designation to his father, Maurice Dean.

Prior to Mr. Dean's change of beneficiary in favor of his father, his wife had filed suit for divorce in a state court, although at the time of his death the divorce proceedings had not been finalized. On August 26, 1986, the state court had ordered that "[n]either party may change the beneficiaries of any existing life insurance policies and each party shall maintain the existing life insurance policies in full force and effect." The order further stated that "all earned income is community property" and directed that neither party could "assign" or "transfer" any community property except as explicitly agreed in writing.

Both Maurice Dean and Mary Ann Dean have filed claims for Mr. Dean's unpaid compensation. Maurice Dean suggests that as the current designated beneficiary he is the proper recipient of the unpaid compensation. Mary Ann Dean alleges that Mr. Dean's act of October 16, 1986, in changing the beneficiary designation for his unpaid compensation was invalid because it was in contempt of the quoted provisions of the state court order. Therefore, she suggests that she should receive the unpaid compensation.

The records before us also show that upon the petition of Mary Ann Dean, a state court issued a temporary restraining order on February 24, 1987, directing the United States to pay any moneys owing to decedent to a special account. However, it does not appear that the temporary restraining order was ever served on the United States. That order lapsed by its own terms on March 4, 1987, and a request for a permanent injunction against the United States was denied by the state court on March 16, 1987. Thus, we need not consider those proceedings, and the sole issue before us is whether the state court order of August 26, 1986, which was issued in the course of Mary Ann Dean's suit for divorce, invalidated the change of beneficiary for unpaid compensation made by Mr. Dean on October 16, 1986.

## ANALYSIS

The disposition of unpaid compensation due an employee of the federal government is controlled by the provisions of 5 U.S.C. § 5582, which states:

"(a) The employing agency shall notify each employee of his right to designate a beneficiary or beneficiaries to receive money due, and of the disposition of money due if a beneficiary is not designated. An employee may change or revoke a designation at any time under such regulations as the Comptroller General of the United States may prescribe.

"(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." (Emphasis added.)

The implementing regulations of the Comptroller General, published in 4 C.F.R. Part 33, do not restrict an employee's power to change or revoke his beneficiary designation at any time.

We have consistently held that, as a general rule, if a deceased federal employee has designated a beneficiary for unpaid compensation under 5 U.S.C. § 5582, payment may not be authorized to a person other than that designated beneficiary. See Harold S. Fenner, 58 Comp. Gen. 644 (1979); and Gayno W. Scott, B-195158, Oct. 26, 1979.

Similarly, in B-169650, June 3, 1970, we allowed the claim of the widow, as designated beneficiary, of a deceased postal worker for unpaid compensation even though she had signed a separation agreement supposedly divesting her of any rights to the unpaid compensation. The rationale there was that such an agreement between individuals even where judicially arranged is not binding on this Office.

Also, in 61 Comp. Gen. 180 (1981), we were asked whether, in accordance with a divorce order obtained by a serviceman's

ex-wife, the Navy was required to release property held at government expense in storage on behalf of the serviceman. In holding that the storage benefits were personal to the serviceman and the disposition of stored property could not be directly affected by state court process we said:

". . . Ordinarily, it would appear advisable for the member to comply with the terms of a property settlement entered into incident to a divorce. Also, the member may be held in contempt by a State court if he violates a State court order to release such property to his divorced spouse. However, that is a matter primarily between him, the spouse and the court." 61 Comp. Gen. at 182.

In addition to our decisions, the United States Supreme Court had occasion to resolve many of these questions in Ridgway v. Ridgway, 454 U.S. 46 (1981), a case very similar to the matter before us. There, pursuant to a divorce action, Army Sergeant Ridgway was ordered by a state court to keep in force his Serviceman's Group Life Insurance Act (SGLIA) policy naming his ex-wife and children as beneficiaries. Later, Sergeant Ridgway remarried and in contempt of the state court order named his new wife as the beneficiary under the SGLIA policy. In rejecting the claim of Sergeant Ridgway's first wife, the Supreme Court held that the detailed federal scheme for the disbursement of government funds in addition to clear language of the statutes in question mandated application of federal law over any competing state court order. See also Ward v. United States, 646 F.2d 474, 477 (Ct. Cl. 1981).

Thus, concerning deceased federal personnel, our Office and the federal courts have consistently held that the disposition of unpaid compensation or other amounts payable under federal law is governed by federal statute and regulation, and not by the laws and court orders of the states of domicile or other state jurisdictions. Hence, entitlement to the unpaid compensation of a deceased federal employee vests in the beneficiary currently designated under the above-quoted provisions of 5 U.S.C. § 5582 at the time of the employee's death, notwithstanding any competing claims that may be presented by a surviving spouse or others not so designated who claim entitlement on the basis of local laws or court orders.

In the present case, Mary Ann Dean bases her claim for Mr. Dean's unpaid compensation on a state court order entered in their divorce proceedings on August 26, 1986. That court order, described above, directed Mr. Dean to

refrain from changing beneficiaries in his life insurance policies, and from assigning or transferring their joint community property. It is not clear from the record presented that this was meant to apply to beneficiary designations for Mr. Dean's unpaid federal compensation in the event of his death. In any event, as indicated, the disposition of that unpaid compensation is a matter exclusively for determination under the applicable federal statutes and regulations, which give first priority to the deceased federal employee's designated beneficiary. Since Mr. Dean's designated beneficiary at the time of his death was his father, Maurice Dean, we have no basis for allowing payment to anyone else.

Accordingly, we deny Mary Ann Dean's claim. Payment should instead issue on the claim of the designated beneficiary, Maurice Dean.

*for*   
Comptroller General  
of the United States