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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: Payment of Unearned Portions of Selective Reenlistment Bonuses After Deaths of Service Members

File: B-239480; B-239488

Date: March 14, 1991

DECISION

This action is in response to a referral to this Office by the Air Force Accounting and Finance Center of two claims considered doubtful concerning the payment of unearned portions of Selective Reenlistment Bonuses (SRB) to the survivors of two deceased Air Force members, Senior Airman David C. Popovich, USAF (deceased) and Sergeant Joseph C. Handy, USAF (deceased). Due to the circumstances surrounding their deaths, the Finance Center asks whether the balance of their SRB may be paid to their survivors along with other arrears of pay due them or whether determinations must first be made that their deaths were not due to their own misconduct. For the reasons presented below, the SRB may be paid to their survivors without such a determination.

The purpose of the SRB, 37 U.S.C. § 308(a), is to encourage reenlistments or extensions of enlistments in critical military specialties. Therefore, a member who receives an SRB is generally required to complete his enlistment in his critical military specialty. Section 308(d) of title 37 requires a member to refund any unearned portion of his SRB if he voluntarily or because of his own misconduct fails to complete the term of enlistment for which he is receiving SRB.

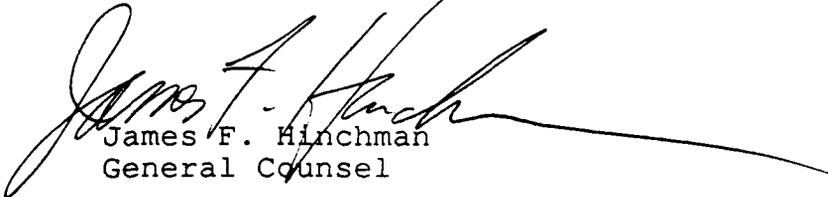
In our decision 45 Comp. Gen. 379 (1966) we interpreted the variable reenlistment law which was similar to 37 U.S.C. § 308 and contained a provision requiring recoupment of the bonus when a member either voluntarily or by his own misconduct did not complete the enlistment. We held that a variable reenlistment bonus vests in the member when the reenlistment procedure is completed. In the event of the member's death, the unpaid portion of the bonus is for inclusion in his final military pay account and distributed in accordance with 10 U.S.C. § 2771.

Similarly, regulations implementing the law, the Department of Defense Military Pay and Allowances Entitlements Manual (DODPM), Part 1, Chapter 9, provide in subparagraph 10915(a)

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that when a member dies before receiving the full amount of an SRB, the unpaid balance is payable as a lump sum for inclusion in the settlement of his final pay account. Subparagraph 10915(d) provides that a member who separates before the end of his enlistment may receive the unpaid installments of his SRB when his separation is under conditions which do not require recoupment under Part 1, Chapter 9, Section D of the DODPM. That section lists the circumstances when recoupment of an unearned portion of an SRB is required. Death, even by misconduct, is not mentioned.

Therefore, payment of the unpaid balance of an SRB may be paid in a lump sum for inclusion in the member's final pay account. A determination on misconduct as to the cause of the member's death is not required. The final pay accounts of the service members discussed above should be settled accordingly.



James F. Hinchman
General Counsel