



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

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B-172015

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Dear Mrs.

We again refer to your letter dated August 18, 1972, forwarding copies of correspondence pertaining to a claim submitted on February 22, 1972, by Captain \_\_\_\_\_, Army Nurse Corps, U. S. Army, to the Finance Officer, Fort Sheridan, Illinois, for basic allowance for quarters at the "with dependents" rate on account of a dependent husband, and referring to her letter of July 11 /21/, 1972, to the Comptroller General of the United States, in which she has amended her claim to include payment of every entitlement which she believes is being denied by our decision of February 16, 1953, B-113093, 32 Comp. Gen. 364.

You say that benefits to female members of the uniformed services have been denied because of a "discriminatory ruling"--the above-cited decision--which has not been corrected. You further say that by recent legislation the Congress has clearly indicated its intent to abolish such discrimination and you urge that our 1953 decision be reviewed and reversed.

In her letter of July 21, 1972, Captain \_\_\_\_\_ says that she has been denied a basic allowance for quarters at the "with dependents" rate because of Department of Defense regulations which were based on our holding in the above decision. Also, in view of certain provisions of law which were enacted subsequent to the decision, she questions the propriety of the holding in our decision. Additionally, she presented numerous legal arguments in support of her contention that the decision should no longer be recognized as a bar to the payment of the increased basic allowance for quarters to female members of the uniformed services.

In our letter of today to Captain \_\_\_\_\_ (copy enclosed), we advised her that by our decision of July 3, 1972, B-161261, 52 Comp. Gen. \_\_\_\_\_, to the Secretary of Defense (copy also enclosed), which was mentioned in our letter of September 1, 1972, to you, we reconsidered our decision in 32 Comp. Gen. 364, and concluded that effective that date (July 3, 1972) a female member of the uniformed services may be considered as having a dependent husband within the meaning of the governing statute, 37 U.S.C. 401, where there is sufficient evidence to establish his dependence on her for over one-half of his support without regard to his mental or physical capability to support himself.

We further advised her, however, that for the reasons cited in the decision of July 3, 1972, there is no authority in the law to

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authorize a female member increased quarters allowance on account of a husband unless it is established that he is dependent upon her for over one-half of his support as specifically required by the present law. In this connection, in our decision of July 3, 1972, we cited a decision dated April 5, 1972, by the United States District Court for the Middle District of Alabama in the \_\_\_\_\_ case wherein that court upheld the constitutionality of section 401 of title 37, U.S. Code.

We further advised Captain \_\_\_\_\_ that she may be entitled under the July 3, 1972, decision to an increased basic allowance for quarters on account of a dependent husband commencing July 3, 1972, should it be determined by the Department of the Army that her husband is in fact dependent upon her for more than one-half of his support. Therefore, we suggested that she present to the finance officer at her installation our letter to her and the copy of the July 3, 1972, decision and request that appropriate action be taken on her pending claim for the increased allowance.

We trust that this will serve the purpose of your inquiry. The enclosures forwarded with your letter of August 18, 1972, are returned.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States

Enclosures

The Honorable Patsy T. Mink  
House of Representatives