



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

Vickers
147574

Decision

Matter of: James B. Haney
File: B-248353
Date: September 10, 1992

DIGEST:

Once a former spouse is validly designated the beneficiary under the Survivor Benefit Plan pursuant to a divorce decree, a subsequent change of beneficiary can only be made following the submission of a modifying court order to the Secretary concerned which permits such a change of election.

DECISION

Former United States Army member James B. Haney has asked us to reconsider our Claims Group denial of his request for a change in the designation of beneficiary under the Survivor Benefit Plan to name his current wife, Helen J. Haney, rather than his former spouse as his beneficiary. For the reasons stated below, we affirm the action of the Claims Group.

On April 4, 1984, Mr. Haney was divorced from Ramona J. Haney and the divorce decree provided that Ramona was to be maintained as the SBP beneficiary. Mr. Haney married Helen J. Haney on April 5, 1984. Mr. Haney requested former spouse coverage on June 10, 1985 pursuant to the court decree, which was not honored by the U.S. Army Finance and Accounting Center, Indianapolis, Indiana because it was filed more than one year after the date of the divorce decree. By notice dated July 10, 1985, Mr. Haney was advised that SBP coverage had been reinstated effective May 1, 1985 for his then wife, Helen, based on their marriage of April 5, 1984. However, Ramona filed a request for a "deemed election" of former spouse coverage prior to October 1, 1985, which the Finance Center honored.

Mr. Haney states that his current spouse, Helen, should be his rightful beneficiary and that Ramona should be deleted as the SBP beneficiary because, in his opinion, she is in contempt of court for violating other terms of their divorce decree.

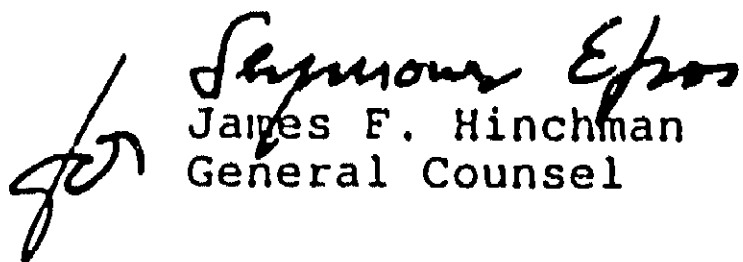
While Mr. Haney was advised that his current spouse would be the beneficiary because of his late filing of his election of Ramona based on the divorce decree, the subsequent

designation of Ramona as beneficiary was proper. On October 19, 1984, the SBP law was changed to permit a former spouse to file for a "deemed election" based on a divorce decree if the member failed to make such an election. 10 U.S.C. § 1450 (f) (3) (A). The law permitted the deemed election request to be made to the Secretary within 1 year of the date of the decree or October 1, 1985, whichever was later. While the 1 year period from the date of the April 4, 1984 decree had expired, Ramona did file such an election request prior to October 1, 1985. Therefore, she became the proper SBP beneficiary.

The SBP law also states that once an election is made which is required by a court order incident to a proceeding of divorce, dissolution or annulment of a marriage, the election may not be changed unless the Secretary is furnished a certified copy of a court order, regular on its face, which modifies the provisions of all previous court orders and permits the election to be changed. 10 U.S.C. § 1450 (f) (2) (A).

Therefore, unless Mr. Haney obtains a modification of the prior court order, the election of Ramona as beneficiary is valid.

The fact that Ramona did not file the consent form in a timely manner to change from insurable interest cost coverage to spouse cost coverage during the prior open season which allowed such a change does not effect the validity of her beneficiary designation.


James F. Hinchman
General Counsel