



United States
General Accounting Office
Washington, D.C. 20548

Office of the General Counsel

B-252194

September 7, 1993

Dear Mrs. :

This is in response to your appeal of Claims Group settlement Z-2867862, dated February 2, 1993, which denied your claim for reinstatement of your Retired Serviceman's Family Protection Plan (RSFPP) annuity. We affirm the Claims Group's settlement.

The record indicates that as the widow of you were receiving annuity payments under both the RSFPP and the Survivor Benefit Plan before your remarriage on August 17, 1991. Because you remarried before your 60th birthday, your RSFPP annuity was terminated. The record also indicates that prior to your remarriage you called the Defense Finance and Accounting Service, Denver Center, to ask what effect your remarriage would have on your annuity payments and were erroneously informed that your remarriage would have no effect on the payments. You have appealed the Claims Group's denial of your claim.

Your RSFPP annuity was terminated under 10 U.S.C. § 1434, which provides that RSFPP annuity payments to a surviving spouse terminate when the spouse remarries before age 60. While it is unfortunate that you received erroneous information regarding the effect of remarriage on your RSFPP annuity, the longstanding rule in such cases is that the government is not liable for the erroneous actions of its officers, agents, and employees. This Office must apply statutes as written and cannot create exceptions, no matter how deserving the situation.

We find no error of law or fact in the Claims Group's settlement, which is accordingly affirmed.

Sincerely yours,

Seymour E. Fox

for

James F. Hinchman
General Counsel

cc: Mary Jane Skeels, Chief
Directorate of Retired Pay Operations
Defense Finance and Accounting Service
Denver Center
Denver, CO 80279-5000

B-252194

September 7, 1993

DIGEST

A widow contemplating marriage 4 months before her 60th birthday called the Defense Finance and Accounting Service, Denver Center, to ask what effect marriage would have on her annuity income. She was erroneously informed that marriage at that time would not affect her Retired Serviceman's Family Protection Plan annuity. She remarried, and the annuity was terminated. Although she relied on the erroneous information, her annuity may not be reinstated because the government is not liable for the erroneous actions of its officers, agents, and employees.