



Office of the General Counsel

B-253799

October 20, 1993

The Honorable Harold L. Volkmer  
Member, United States  
House of Representatives  
Room 370  
Federal Building  
Hannibal, MO 63401

Dear Mr. Volkmer:

This is in response to your letter of September 8, 1993 and prior correspondence regarding Mrs. [redacted] of Bowling Green, Missouri and the Social Security offset which was applied to her Survivor Benefit Plan (SBP) annuity. Our Office has spoken with Mrs. [redacted] of your office regarding Mrs. [redacted].

From the information furnished with your correspondence, it appears that when Mrs. [redacted] reached the age of 62, her SBP annuity was reduced by the amount of her social security entitlement based on her husband's military service even though she had not applied for, nor was receiving, social security benefits at that time.

The SBP, 10 U.S.C. §§ 1447-1455, was designed as an income maintenance program for the surviving dependents of retirement-eligible service members. The social security offset provision reflects the intent of Congress that the SBP annuities were to complement social security benefits to which the annuitant "would be entitled" based on the retiree's military service. Congress intended that the SBP annuity of a surviving spouse be reduced at age 62 when the spouse became eligible for such social security benefits. [redacted], 71 Comp. Gen. 490 (1992). The offset occurs whether the survivor has applied for or is receiving the benefits or not. See Department of Defense Military Retired Pay Manual ¶ 90514.

While it is regrettable that there was a delay in the response of the Defense Finance and Accounting Service to Mrs. [redacted] inquiry, the fact remains that the offset must be applied when an annuitant reaches 62.

However, Mrs. [redacted] should contact the Social Security Administration regarding the possibility of obtaining retroactive benefits.

We hope this is of assistance to you in responding to your constituent.

Sincerely yours,

*Seymour E. Hinchman*

James F. Hinchman  
General Counsel

*JFH*

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DIGEST

Social Security offset was properly applied to widow's Survivor Benefit Plan annuity when widow attained the age of 62, whether or not she had applied for Social Security benefits, because SBP law requires that offset begin when widow "would be entitled".