

Feinstein



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Railroad Retirement Board - Payment to Beneficiaries of Dual Benefits Payments Account for Excess Deduction from Monthly Payments

File: B-205921

Date: March 27, 1987

DIGEST

Under a sequestration order issued by the President under Pub. L. No. 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985, the Railroad Retirement Board reduced monthly payments made under the Dual Benefits Payments Account (Federal Windfall Subsidy). Excess amounts not required to be sequestered remained in the account but were not disbursed prior to the end of fiscal year 1986. Because the excess amounts were not included in any of the monthly payments made in fiscal year 1986, they did not constitute a part of the beneficiaries' entitlements, and therefore are not available for disbursement after the end of fiscal year 1986. See 62 Comp. Gen. 521 (1983).

DECISION

By letter of June 13, 1986, the Secretary to the Railroad Retirement Board, on behalf of the Board, requested our decision concerning excess deductions from monthly payments made to beneficiaries of the Dual Benefits Payments Account (also known as the Federal Windfall Subsidy). Under a sequestration order issued on February 1, 1986 (51 Fed. Reg. 4291) by the President under Pub. L. No. 99-177, 99 Stat. 1038, the Balanced Budget and Emergency Deficit Control Act of 1985, the appropriation for the account was reduced by 4.3 percent. As a result, the Board reduced monthly payments by 7.7 percent beginning in April 1986 in an effort to assure that the 4.3 percent reduction would be achieved during the remaining months of the fiscal year. This reduction continued through the end of fiscal year 1986. We are informed that the reduction in monthly benefits exceeded the ordered sequestration by approximately \$2 million. The Board now wishes to know if the excess amounts withheld from the beneficiaries may be paid to them after the end of fiscal year 1986.

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The Board's letter refers to our decision B-205921, July 8, 1983 (62 Comp. Gen. 521), which held that since the account receives an annual appropriation, any unobligated amounts remaining in the account at the end of the fiscal year for which the appropriation was received must be returned to the general fund of the Treasury under 31 U.S.C. § 1552(a)(2). According to the Board, the excess amount deducted from the monthly payments in this case would have been paid to the beneficiaries had more precise accounting been available. It is the position of the Board that this excess amount was obligated during the fiscal year for which it was appropriated and the Board is required to issue make-up checks after the end of the fiscal year. We disagree.

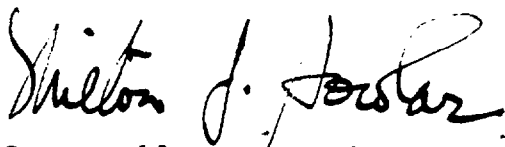
The Dual Benefits Payments Account was established by section 1124 of Pub. L. No. 97-35, 95 Stat. 639, of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. § 231n(d)). Payments are funded by annual appropriations to the Dual Benefits account. *Id.* Payments are made to individuals who on a single employment record were eligible for both railroad retirement pensions and social security retirement benefits and who formerly had received separately calculated benefits under each program. *See* H.R. Rep. No. 208, 97th Cong., 1st Sess. 862-863 (1981), Conference Report on H.R. 3982, enacted as the Omnibus Budget Reconciliation Act of 1981. These persons' payments from the Dual Benefits Payments Account are in addition to regular railroad retirement payments.

With respect to the Dual Benefits Payments Account, 45 U.S.C. § 231f(c) provides that the total amount paid in a fiscal year is not to exceed that year's appropriation. Further, if the appropriation is for less than the statutory formula, the Board under regulations is to make payments, as far as practicable, in equal monthly amounts throughout the fiscal year. *Id.* When reduced appropriations trigger the reduction formula spelled out in the statute and implementing regulations, section 231f(c) specifies that an individual's entitlement to benefits for any month "shall not exceed the amount so allocated for that month to such individual."

In fiscal year 1986, the Congress appropriated the full amount requested and the Board commenced making payments. However, the February 1, 1986, sequestration order of the President under the Deficit Control Act reduced the available appropriation for the remainder of the year, thus necessitating a reduction of the payments beginning in April 1986. The \$2 million in question was deducted from the individual monthly payments but proved to be in excess of the sequestration ordered for fiscal year 1986.

Our decision of July 8, 1983, B-205921, published at 62 Comp. Gen. 521, to which the Board refers, addressed a situation where funds were left over at the end of a fiscal year when, because appropriations were less than amounts requested by the Board, entitlements had been calculated pursuant to the benefit reduction formula. The funds were left over as a result of the Board's difficulty in precisely calculating the amounts of equal monthly payments within the limits of the reduced appropriation. The question presented was whether the funds could be carried over to later fiscal years, presumably to help make up appropriations shortfalls in such later years. Because appropriations to the Dual Benefits Payments Account are 1-year funds and because section 231f(c) limits benefit entitlements (and therefore obligations) to the monthly amounts allocated when there is an appropriation shortfall, the decision concluded that carryover of amounts not allocated for benefit payments and therefore not obligated within the fiscal year was precluded.

In the case at hand, the reduction formula of section 231f(c), with its attendant statutory reduction in entitlements to the monthly amounts allocated by the Board, also came into play. As a result, beneficiaries were entitled only to their share of dual benefit payments as reflected in the monthly checks. Although the sequestration order only required a reduction of 4.3 percent in the amount appropriated for dual benefit payments, the entire reduction was achieved by using the section 231f(c) reduction formula which makes the checks issued the conclusive amount of the entitlement obligation. Accordingly, the amounts withheld from payments in excess of 4.3 percent of the appropriation were unobligated at the end of the fiscal year and the payment of these funds in a subsequent fiscal year is barred.

for 
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