

OPINION
52-199

April 3, 1952 (OPINION)

VETERANS

RE: Soldier's Bonus

According to the facts as set forth in your letter of 29 January, 1952, adjusted compensation applications were submitted by Mr. and Mrs. Beard as beneficiaries of the above captioned veteran. The applications were approved and Mr. Adalbert Beard was then sent a warrant in the amount of \$300 representing his share of adjusted compensation to which he was entitled as one of two beneficiaries of the above captioned deceased veteran. A warrant for \$300 was also sent to Mrs. Minnie May Beard representing her share as the other eligible beneficiary of the veteran. Both beneficiaries endorsed their respective warrants only on the reverse side where it was indicated that payee should endorse. However, both beneficiaries neglected to sign the receipt portion of the warrants. The bank to which the warrants were presented refused to make payment in that the receipt portions of the warrants were not properly completed in view of the following which is printed above the endorsement on warrants of this type.

"VOID UNLESS ATTACHED RECEIPT IS

COMPLETED AND SIGNED

The endorsement of this warrant must be
technically and legally perfect, or the
state treasurer will refuse payment

Payee Endorse Here."

Before Mr. Beard ever completed the endorsement or received payment he died and the warrant was found among his papers. In view of the facts set forth above, you requested an opinion from this office as to certain questions which have arisen from the factual situation given.

The following sets forth the questions you have presented and our opinion as to the procedure to be followed in each instance:

Question 1. In a telephone conversation with Mr. Cecil, it was reported that the receipt part of the warrant had never been signed. Would this endorsement be considered sufficient in order that it would be considered a part of his estate or must the warrant be returned to the State?

Question 2. We have an opinion from your office indicating

that payment under the North Dakota Adjusted Compensation Act is considered to be made when the applicant endorses his warrant. Must the endorsement be complete so as to be acceptable to a bank or is a partial endorsement, such as in this case, sufficient?

Questions 1 and 2 will be answered jointly.

You have on file a prior opinion from this office stating that in view of certain provisions of the Veterans Adjusted Compensation Act payment is not deemed to be made until the adjusted compensation warrants have been presented for payment and converted into moneys. In view of the facts as presented, there was an incomplete endorsement of the warrant, the bank refused to make payment and therefore it was our opinion that payment could not be considered to have been made. The incomplete warrant, therefore, would not become a part of his estate and the warrant must be returned to the State of North Dakota for cancellation.

Question 3. If the mother has not endorsed her warrant in full, will she be able to return both her warrant and Mr. Beard's warrant to this office, assuming the father's warrant did not become a part of his estate, and submit an application to this office as the sole surviving parent of the deceased veteran?

If the beneficiary has not endorsed her warrant in full as required, it is our opinion that upon receipt of her personal affidavit setting forth that she is the surviving parent and submitting acceptable evidence of her husband's death and if both warrants are returned, Mrs. Beard would be entitled to compensation payment as the sole surviving parent.

Question 4. If the mother has endorsed her warrant in full, is she precluded from now submitting a second claim as the sole survivor of the deceased veteran?

If Mrs. Beard has endorsed her warrant in full and the bank has paid her her share of the adjusted compensation due her she would now be precluded from submitting an application and receiving payment as a surviving parent.

If a deceased veteran died in active service between January 1, 1941 and January 1, 1946, the Veterans Adjusted Compensation Act provides for a minimum \$600 that may be paid to beneficiaries. This does not mean the \$600 is earmarked or set aside to be paid to the beneficiaries, nor does it mean that the entire \$600 must be paid to the beneficiaries. It does mean that applications may be submitted for the adjusted compensation and in such case the minimum available for payment shall be \$600. Thus, if there are two eligible beneficiaries and only one applies within the five year period in which applications may be submitted, the applicant is paid his share of the \$600 as one of two possible beneficiaries and is therefore paid \$300. There is no question as to whether there is \$300 that will then revert back to the state as the \$300 has never left the state, but was merely an amount available to be paid after proper application had been made. The applicant had applied for his share

of the \$600 available and had accepted payment of all he was entitled to receive. The results would be the same had the beneficiaries who had not applied died subsequent to the other beneficiary receiving payment and prior to the dead line date for filing. In that case, the survivor could not submit another application as sole surviving beneficiary and receive an additional \$300. The same procedure must be followed in the situation which you have presented.

It may be contended that the facts are different in that in the present situation both beneficiaries had applied, whereas in the example given above, only one had applied. We believe, however, the results must be the same in view of our opinion that an application is not completed or consummated until payment is deemed to have been made. Payment, therefore, is the ruling and deciding factor.

It may be also suggested that the situation here is different in that one beneficiary died prior to the one beneficiary receiving payment. It is our opinion that this has no bearing in view of the fact that if Mrs. Beard has now received payment, she has received and accepted payment which constitutes her share as a beneficiary of the deceased veteran and as such she has no interest in the share that the other beneficiary had applied for, nor can any claim of interest develop after the payment of her share has been made.

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Attorney General