

DATE: May 1, 2007

In Re:

REDACTED

Claimant

)
Claims Case No. 07042413

CLAIMS APPEALS BOARD

RECONSIDERATION DECISION

DIGEST

1. Under the provisions of Department of Defense Directive 1340.21, the Defense Office of Hearings and Appeals generally must receive a claimant's request for reconsideration of an appeal decision within 30 days of the appeal decision.
2. The burden of proving the existence of a valid claim against the United States is on the person asserting the claim.

DECISION

The widow of a deceased service member requests reconsideration of the March 20, 2007, appeal decision of the Defense Office of Hearings and Appeals (DOHA) in DOHA Claim No. 07020510, in which DOHA denied her claim for payment of "equalization pay" incident to her late husband's service in the Philippines during World War II.

Background

The record shows that the service member was inducted into a recognized guerilla group on November 1, 1944, and was discharged from the United States Armed Forces in the Philippines (USAFIP) on January 23, 1946. By letter dated February 20, 2007, the claimant requested "equalization pay" for her late husband's service. Our adjudicators explained that since the end of World War II, legislation has been introduced from time to time in the United States Congress to authorize retroactive equal pay for Philippine veterans of the war. This is commonly referred to as "equalization pay." However, despite the widespread belief in the Philippines that such legislation had been enacted, no legislation for equalization pay has ever been enacted into law. Accordingly, our adjudicators disallowed the claim. Our adjudicators also advised the claimant that under DoD Instruction 1340.21, ¶ E7.13, ⁽¹⁾ DOHA may accept a request for reconsideration from her, but that such a request had to be received by DOHA within 30 days from the date of the March 20, 2007, decision. DOHA received the claimant's request for reconsideration on April 24, 2007.

Discussion

The claimant's request for reconsideration is untimely. While the 30-day receipt requirement may be extended an additional 30 days for good cause, the claimant neither demonstrated good cause nor demonstrated that the service member (and the claimant through him) was entitled by law to the benefit claimed.

Conclusion

The claimant's request for reconsideration is denied, and we affirm the March 20, 2007, appeal decision in DOHA Claim No. 07020510 disallowing the claim. In accordance with DoD Instruction 1340.21, ¶ E7.15.2 ⁽²⁾ this is the final

administrative action of the Department of Defense in this matter.

Signed: Michael D. Hipple

Michael D. Hipple

Chairman, Claims Appeals Board

Signed: Jean E. Smallin

Jean E. Smallin

Member, Claims Appeals Board

Signed: William S. Fields

William S. Fields

Member, Claims Appeals Board

1. This provision is also codified at 32 C.F.R. Part 282, Appendix E, subparagraph (m).
2. This provision is also codified at 32 C.F.R. Part 282, Appendix E, subparagraph (o)(2).