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APPROVED  
JUL 8 - 1975



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

JUL 3 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1421 - For the relief of  
Stephanie Kahn and Barbara Heyman  
Sponsor - Rep. Rees (D) California

*Posted  
7/9  
To Archive  
7/9*

Last Day for Action

July 9, 1975 - Wednesday

Purpose

Authorizes payment to Barbara Heyman on behalf of her daughter Stephanie Kahn of an amount not to exceed \$1,202.38 representing retroactive death pension benefits payable by the Veterans Administration.

Agency Recommendations

Office of Management and Budget	Approval
Veterans Administration	Approval

Discussion

H.R. 1421 would authorize the payment to Barbara Heyman on behalf of her daughter Stephanie Kahn of \$1,202.38 representing VA death pension benefits payable as the result of the death of Stephanie's father, Martin Kahn, a veteran, on November 28, 1966. The benefits authorized by the enrolled bill would be payable from the date of death to June 17, 1970, the date a claim for death pension benefits was received by VA.

According to the VA, Mrs. Heyman, Stephanie's mother, was divorced from Martin Kahn in 1959, was estranged from members of the veteran's family and, despite inquiries as to his whereabouts, did not learn of his death until June 1970 when an application for VA benefits was filed. (An application for social security benefits was filed with the Social Security Administration at the same time



and was subsequently paid for the 1966-1970 period.)

VA denied Mrs. Heyman's claim for retroactive benefits on behalf of Stephanie because of a limitation in the law (38 U.S.C. 3010 (a) and (d)) authorizing the payment of such benefits only if an application is received within one year from the date of death. Since Mrs. Heyman's application was not received until over three years after the veteran's death, benefits were payable only from the date of receipt of the application.

The VA recommended enactment of a nearly identical 93rd Congress bill in view of the particular circumstances of Mrs. Heyman's situation. VA suggested at that time that the law be amended to avoid such cases and in its views letter on the enrolled bill, states:

"The current law is such that the responsible Veterans Administration employees had no choice but doing what they did in assigning the effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. Our study of the matter has indicated the need for liberalizing legislation relating to cases like this. We are presently perfecting a proposal to allow more equitable determinations under like and similar circumstances."

We concur with the view expressed by VA that the circumstances of this case warrant approval of H.R. 1421.

Acting Assistant Director  
for Legislative Reference

Enclosures



ACTION

THE WHITE HOUSE

WASHINGTON

Last Day: July 9

July 7, 1975

MEMORANDUM FOR THE PRESIDENT  
FROM: JIM CANNON *JMC*  
SUBJECT: Enrolled Bill H.R. 1421 - For the  
Relief of Stephanie Kahn and Barbara Heyman

Attached for your consideration is H.R. 1421, sponsored by Representative Rees, which authorizes payment to Barbara Heyman on behalf of her daughter Stephanie Kahn of \$1,202.38 representing VA death pension benefits payable as the result of the death of Stephanie's father.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Phil Buchen (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 1421 at Tab B.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 3

Time: 315pm

FOR ACTION: Roger Semerad  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jim Cavanaugh  
Jack Marsh

FROM THE STAFF SECRETARY

---

DUE: Date: July 7

Time: noon

---

SUBJECT:

H.R. 1421 - For the Relief of Stephanie Kahn  
and Barbara Heyman

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

---

K. R. COLE, JR.  
For the President

6

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 3

Time: 315pm

FOR ACTION: Roger Semerad  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jim Cavanaugh  
Jack Marsh

*mu 6*

FROM THE STAFF SECRETARY

DUE: Date: July 7

Time: noon

SUBJECT:

H.R. 1421 - For the Relief of Stephanie Kahn  
and Barbara Heyman

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



6

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 3

Time: 315pm

FOR ACTION: Roger Semerad  
Max Friedersdorf  
Ken Lazarus ✓

cc (for information): Jim Cavanaugh  
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 7

Time: noon

SUBJECT:

H.R. 1421 - For the Relief of Stephanie Kahn  
and Barbara Heyman

ACTION REQUESTED:

\_\_\_ For Necessary Action

X\_\_\_ For Your Recommendations

\_\_\_ Prepare Agenda and Brief

\_\_\_ Draft Reply

X\_\_\_ For Your Comments

\_\_\_ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 7/3/75

4013 NEBB

6

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: July 3

Time: 315pm

FOR ACTION: Roger Semerad ✓  
Max Friedersdorf  
Ken Lazarus

cc (for information): Jim Cavanaugh  
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 7

Time: noon

SUBJECT:

H.R. 1421 - For the Relief of Stephanie Kahn  
and Barbara Heyman

ACTION REQUESTED:

\_\_\_ For Necessary Action

X\_\_\_ For Your Recommendations

\_\_\_ Prepare Agenda and Brief

\_\_\_ Draft Reply

X\_\_\_ For Your Comments

\_\_\_ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

I approve

*Roger Semerad*  
7/3/75



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503



To  
Cromm  
7-2-75  
1:30 p.m.

JUL 3 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1421 - For the relief of  
Stephanie Kahn and Barbara Heyman  
Sponsor - Rep. Rees (D) California

Last Day for Action

July 9, 1975 - Wednesday

Purpose

Authorizes payment to Barbara Heyman on behalf of her daughter Stephanie Kahn of an amount not to exceed \$1,202.38 representing retroactive death pension benefits payable by the Veterans Administration.

Agency Recommendations

Office of Management and Budget	Approval
Veterans Administration	Approval

Discussion

H.R. 1421 would authorize the payment to Barbara Heyman on behalf of her daughter Stephanie Kahn of \$1,202.38 representing VA death pension benefits payable as the result of the death of Stephanie's father, Martin Kahn, a veteran, on November 28, 1966. The benefits authorized by the enrolled bill would be payable from the date of death to June 17, 1970, the date a claim for death pension benefits was received by VA.

According to the VA, Mrs. Heyman, Stephanie's mother, was divorced from Martin Kahn in 1959, was estranged from members of the veteran's family and, despite inquiries as to his whereabouts, did not learn of his death until June 1970 when an application for VA benefits was filed. (An application for social security benefits was filed with the Social Security Administration at the same time



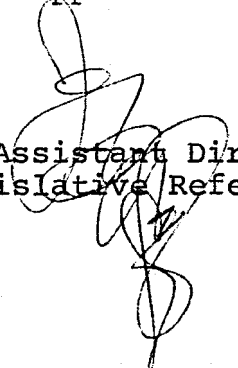
and was subsequently paid for the 1966-1970 period.)

VA denied Mrs. Heyman's claim for retroactive benefits on behalf of Stephanie because of a limitation in the law (38 U.S.C. 3010 (a) and (d)) authorizing the payment of such benefits only if an application is received within one year from the date of death. Since Mrs. Heyman's application was not received until over three years after the veteran's death, benefits were payable only from the date of receipt of the application.

The VA recommended enactment of a nearly identical 93rd Congress bill in view of the particular circumstances of Mrs. Heyman's situation. VA suggested at that time that the law be amended to avoid such cases and in its views letter on the enrolled bill, states:

"The current law is such that the responsible Veterans Administration employees had no choice but doing what they did in assigning the effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. Our study of the matter has indicated the need for liberalizing legislation relating to cases like this. We are presently perfecting a proposal to allow more equitable determinations under like and similar circumstances."

We concur with the view expressed by VA that the circumstances of this case warrant approval of H.R. 1421.

  
Acting Assistant Director  
for Legislative Reference

Enclosures



VETERANS ADMINISTRATION  
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS  
WASHINGTON, D.C. 20420



July 1, 1975

The Honorable  
James T. Lynn  
Director, Office of  
Management and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

We are pleased to respond to the request of Mr. James M. Frey, Assistant Director for Legislative Reference, for a report on the enrolled enactment of H. R. 1421, 94th Congress, "An Act For the relief of Stephanie Kahn and Barbara Heyman."

The bill proposes payment to Barbara Heyman on behalf of her daughter, Stephanie Kahn, by the Secretary of the Treasury, of the amount determined by the Administrator of Veterans Affairs to represent death pension which would have been payable by the Veterans Administration on account of the death of the veteran Martin Kahn (VA No. XC 14 036 054), if timely application had been filed. Such amount shall not exceed \$1,202.38.

On November 21, 1974, after clearance with your office, we submitted a report to the Chairman, House Committee on the Judiciary, on H. R. 2534, 93d Congress. That bill proposed payment to Mrs. Barbara Heyman on behalf of Stephanie Kahn of amounts which would have been paid under laws administered by the Veterans Administration, and under the Social Security Act, had timely applications been filed. The Committee favorably reported the subject bill, H. R. 1421, on March 19, 1975, limiting relief to benefits under Veterans Administration laws. Our favorable report on H. R. 2534, 93d Congress, as it related to Veterans Administration benefits is incorporated in the House and Senate reports on H. R. 1421 (H. Rept. No. 94-83; S. Rept. No. 94-236). One copy of each of the congressional reports is enclosed for ready reference.

The Honorable James T. Lynn

The veteran, Martin Kahn, had honorable service from March 1943 to January 1946, and died on November 28, 1966. During his lifetime he was married to one Barbara Cole who obtained a divorce from him in Mexico on December 22, 1959. One child was born of this marriage, Stephanie Lynn Kahn, born January 20, 1957.

The child's mother, Mrs. Barbara Heyman, asserts that following the mentioned divorce, she and her daughter were estranged from members of the veteran's family, and that despite inquiries as to the veteran's whereabouts, she did not learn of his death until June 1970.

Mrs. Heyman filed an application for child's insurance benefits for Stephanie with the Social Security Administration on June 17, 1970. Under the governing statutory and regulatory provisions, that application, having been in a form jointly prescribed by the Administrator and the Secretary of Health, Education, and Welfare, was also deemed to be an application for Veterans Administration death benefits on Stephanie's behalf. Accordingly, Veterans Administration death pension was awarded as of June 17, 1970, rather than July 6, 1970, the date of receipt of a specific claim filed with the Veterans Administration. Currently, the monthly amount of pension being paid on Stephanie's account is \$34.50.

There is no limitation on the time in which an application may be made for death pension. The law provides a limitation, however, regarding payment of the benefit for a period prior to the date of application. Retroactive payment is authorized from the first day of the month in which the veteran's death occurred, only if an application is received within one year from the date of death. Otherwise, the benefit is payable only from the date of receipt of the application. (38 U.S.C. 3010 (a) and (d))

Approval of the measure would authorize retroactive payment of death pension with the maximum amount being \$1,202.38.

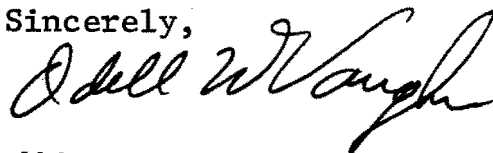
The Honorable James T. Lynn

The exact amount would be determined in accordance with facts found to have existed during the relevant time period and pertinent statutory eligibility criteria.

The current law is such that the responsible Veterans Administration employees had no choice but doing what they did in assigning the effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. Our study of the matter has indicated the need for liberalizing legislation relating to cases like this. We are presently perfecting a proposal to allow more equitable determinations under like and similar circumstances.

In line with the foregoing, I recommend that the President approve H. R. 1421.

Sincerely,



Deputy Administrator - In the absence of

RICHARD L. ROUDEBUSH  
Administrator

Enclosures

STEPHANIE KAHN AND BARBARA HEYMAN

MARCH 19, 1976.—Committed to the Committee of the Whole House and ordered to be printed

MR. DANIELSON, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1421]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1421) for the relief of Stephanie Kahn and Barbara Heyman, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide for the payment to Barbara Heyman on behalf of Stephanie Kahn, her daughter, of an amount determined by the Administrator of the Veterans Administration to be payable under otherwise applicable law as monthly payments from the first day of the month of the death of Mr. Martin Kahn until June 16, 1970. The bill provides that the sum, which shall not exceed the amount of \$1,202.38, will be paid in full satisfaction of all claims for the amounts which would have been paid if an application for such benefits had been made within one year after the death of Martin Kahn.

STATEMENT

The Veterans Administration, in a report on a bill in the 93rd Congress, stated that it would favor enactment of a bill providing for a determination of the benefits as if a timely claim had been filed within one year of the father's death.

The Veterans Administration report states that the veteran, Martin Kahn (VA No. XC-14036054), had honorable service from March 1943 to January 1946, and died on November 28, 1966. During his lifetime, he was married to one Barbara Cole, who obtained a divorce from him in Mexico on December 22, 1959. One child was born of this marriage, Stephanie Lynn Kahn, born on January 20, 1957.

The child's mother, Mrs. Barbara Heyman, asserts that following the mentioned divorce, she and her daughter were estranged from

members of the veteran's family, and that despite inquiries as to the veteran's whereabouts, she did not learn of his death until June 1970.

Mrs. Heyman filed an application for child's insurance benefits for Stephanie with the Social Security Administration on June 17, 1970. Under the governing statutory and regulatory provisions, that application, having been in a form jointly prescribed by the Administrator and the Secretary of Health, Education and Welfare, was also deemed to be an application for Veterans Administration death benefits on Stephanie's behalf. Accordingly, Veterans Administration death pension was awarded as of June 17, 1970, rather than July 6, 1970, the date of receipt of a specific claim filed with the Veterans Administration. Currently, the monthly amount of pension being paid on Stephanie's account is \$31.00.

There is no limitation on the time in which an application may be made for death pension. The law provides a limitation, however, regarding payment of the benefit for a period prior to the date of application. Retroactive payment is authorized from the first day of the month in which the veteran's death occurred, only if an application is received within one year from the date of death. Otherwise, the benefit is payable only from the date of receipt of the application. (38 U.S.C. 3010(a) and (d)).

Eligibility for non-service-connected death pension, the Veterans Administration benefit to which the bill relates, is based on a number of factors, including financial need. With respect to a surviving child of a veteran, payment is barred if unearned annual income exceeds \$2,000. (38 U.S.C. 542(c)). Also, pension is not payable if the corpus of estate (net worth) of the survivor is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for maintenance. (38 U.S.C. 543).

In indicating it would favor relief of the sort now provided in the bill H.R. 1421, the Veterans Administration stated:

Considering the foregoing statutory limitations, it is suggested that H.R. 2534 be amended to provide for payment of such amount as is determined to represent the non-service-connected death pension which would have been properly payable to Stephanie Kahn for the period from November 1, 1966, through June 16, 1970, if an application for such benefit had been received within one year after the death of Martin Kahn (VA No. XC-14036054). If the measure is enacted in such revised form, the Veterans Administration will seek the data necessary to determine the amount payable thereunder. The maximum amount would be \$1,202.38.

The current law is such that the responsible Veterans Administration employees had no choice but doing what they did in assigning the effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce, there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. It is believed that said law may be too rigid in cases such as this. Consequently, we are considering the desirability of legislation that would allow more equitable determinations under these and similar circumstances.

In the light of the foregoing, the Veterans Administration favors enactment of the provision relating to our benefit if revised as suggested.

On the basis of the facts and recommendations outlined above, the Committee finds that relief is merited in this instance, and recommends that the bill be considered favorably.

The committee has been advised that an attorney has rendered services in connection with this matter. Accordingly, the bill contains the customary limitation on attorney's fees.

VETERANS' ADMINISTRATION,  
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,  
Washington, D.C., November 21, 1974.

HON. PETER W. RODINO, JR.,  
Chairman, Committee on the Judiciary, House of Representatives,  
Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a report on H.R. 2534, 93d Congress, "A Bill For the relief of Stephanie Kahn and Barbara Heyman."

This bill would provide, in part, for a specific lump-sum payment of \$1,204 on behalf of Stephanie Kahn purporting to represent the death pension which would have been payable by the Veterans' Administration for the period from November 1, 1966, the first day of the month in which Stephanie's veteran father died, until June 1, 1970, notwithstanding that application for benefits was not filed until July 6, 1970. The measure would also authorize a payment representing certain social security benefits. This report will be restricted, of course, to the matter of Veterans' Administration death pension.

The veteran, Martin Kahn (VA No. XC-14036054), had honorable service from March 1943 to January 1946, and died on November 28, 1966. During his lifetime, he was married to one Barbara Cole who obtained a divorce from him in Mexico on December 22, 1959. One child was born of this marriage, Stephanie Lynn Kahn, born on January 20, 1957.

The child's mother, Mrs. Barbara Heyman, asserts that following the mentioned divorce, she and her daughter were estranged from members of the veteran's family, and that despite inquiries as to the veteran's whereabouts, she did not learn of his death until June 1970.

Mrs. Heyman filed an application for child's insurance benefits for Stephanie with the Social Security Administration on June 17, 1970. Under the governing statutory and regulatory provisions, that application, having been in a form jointly prescribed by the Administrator and the Secretary of Health, Education, and Welfare, was also deemed to be an application for Veterans' Administration death benefits on Stephanie's behalf. Accordingly, Veterans' Administration death pension was awarded as of June 17, 1970, rather than July 6, 1970, the date of receipt of a specific claim filed with the Veterans' Administration. Currently, the monthly amount of pension being paid on Stephanie's account is \$31.00.

There is no limitation on the time in which an application may be made for death pension. The law provides a limitation, however, re-

garding payment of the benefit for a period prior to the date of application. Retroactive payment is authorized from the first day of the month in which the veteran's death occurred, only if an application is received within one year from the date of death. Otherwise, the benefit is payable only from the date of receipt of the application. (38 U.S.C. 3010 (a) and (d)).

Eligibility for non-service-connected death pension, the Veterans Administration benefit to which H.R. 2534 relates, is based on a number of factors, including financial need. With respect to a surviving child of a veteran, payment is barred if unearned annual income exceeds \$2,000. (38 U.S.C. 542(c)). Also, pension is not payable if the corpus of estate (net worth) of the survivor is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for maintenance. (38 U.S.C. 543).

Considering the foregoing statutory limitations, it is suggested that H.R. 2534 be amended to provide for payment of such amount as is determined to represent the non-service-connected death pension which would have been properly payable to Stephanie Kahn for the period from November 1, 1966, through June 16, 1970, if an application for such benefit had been received within one year after the death of Martin Kahn (VA No. XC-14036054). If the measure is enacted in such revised form, the Veterans Administration will seek the data necessary to determine the amount payable thereunder. The maximum amount would be \$1,202.38.

The current law is such that the responsible Veterans Administration employees had no choice but doing what they did in assigning the effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce, there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. It is believed that said law may be too rigid in cases such as this. Consequently, we are considering the desirability of legislation that would allow more equitable determinations under these and similar circumstances.

In the light of the foregoing, the Veterans Administration favors enactment of the provision relating to our benefit if revised as suggested.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD L. ROUDEBUSH,  
*Administrator.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
*November 11, 1974.*

HON. PETER W. RODINO, JR.,  
*Chairman, Committee on the Judiciary, House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of February 5, 1973, for a report on H.R. 2534, a bill "For the relief of Stephanie Kahn and Barbara Heyman." Our response is directed to

the provisions of the bill concerning social security benefits, and we defer to the Veterans Administration on the portion of the bill concerned with veterans benefits.

The bill would provide that the Secretary of the Treasury pay from the Treasury \$3,487.50 to Barbara Heyman on behalf of her daughter, Stephanie Kahn. This amount, according to the bill, represents 31 unpaid monthly social security survivors' benefits for the period beginning with November 1966 and ending with May 1969.

Stephanie Kahn's father (and Barbara Heyman's divorced husband), Martin Kahn, died in November 1966. Barbara Heyman had not been aware of Martin Kahn's death until June 1970, at which time she filed an application for benefits on behalf of Stephanie Kahn. She was awarded monthly social security benefits on behalf of Stephanie retroactively for months beginning with June 1969 and is still receiving monthly benefits on Stephanie's behalf.

Barbara Heyman requested that benefit eligibility be made retroactive to the month of Martin Kahn's death, but it was determined that no valid application had been filed on Stephanie Kahn's behalf until June 1970. Under the law, social security benefits can be paid only up to 12 months before the month in which a valid application is filed.

After a review of the case, the Social Security Administration determined that social security benefits should have been paid for the 31-month period of November 1966 through May 1969 to Barbara Heyman on behalf of Stephanie Kahn. This determination was based on a finding by the Social Security Administration that a statement made by the deceased's brother in 1966 and which was reflected in a writing in Administration files, constituted a protective application for child's insurance benefits on behalf of Stephanie Kahn. Pursuant to the new decision, social security child's insurance benefits totalling \$3,294 for the period in question have been paid to Barbara Heyman, on behalf of Stephanie Kahn. This amount consists of benefits of \$99.60 a month for 15 months—November 1966 through January 1968—and of \$112.50 a month for 16 months—February 1968 through May 1969. We are certain that \$3,294, rather than \$3,487.50 as provided in the bill, is the correct figure.

In view of the foregoing, we recommend against enactment of those provisions of the bill dealing with social security benefits.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER,  
*Secretary.*



## STEPHANIE KAHN AND BARBARA HEYMAN

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JUNE 24 (legislative day, JUNE 6), 1975.—Ordered to be printed

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Mr. EASTLAND, from the Committee on the Judiciary,  
submitted the following

### REPORT

[To accompany H.R. 1421]

The Committee on the Judiciary, to which was referred the bill (H.R. 1421) for the relief of Stephanie Kahn and Barbara Heyman, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

#### PURPOSE

The purpose of the proposed legislation is to provide for the payment to Barbara Heyman on behalf of Stephanie Kahn, her daughter, of an amount determined by the Administrator of the Veterans' Administration to be payable under otherwise applicable law as monthly payments from the first day of the month of the death of Mr. Martin Kahn until June 16, 1970. The bill provides that the sum, which shall not exceed the amount of \$1,202.38, will be paid in full satisfaction of all claims for the amounts which would have been paid if an application for such benefits had been made within 1 year after the death of Martin Kahn.

The facts of this case, as contained in House Report No. 94-83, are as follows:

The Veterans' Administration, in a report on a bill in the 93d Congress, stated that it would favor enactment of a bill providing for a determination of the benefits as if a timely claim had been filed within 1 year of the father's death.

The Veterans' Administration report states that the veteran, Martin Kahn (VA No. XC-14036054), had honorable service from March 1943 to January 1946, and died on November 28, 1966. During his lifetime, he was married to one Barbara Cole, who obtained a divorce from him in Mexico on December 22, 1959. One child was born of this marriage, Stephanie Lynn Kahn, born on January 20, 1957.

The child's mother, Mrs. Barbara Heyman, asserts that following the mentioned divorce, she and her daughter were estranged from members of the veteran's family, and that despite inquiries as to the veteran's whereabouts, she did not learn of his death until June 1970.

Mrs. Heyman filed an application for child's insurance benefits for Stephanie with the Social Security Administration on June 17, 1970. Under the governing statutory and regulatory provisions, that application, having been in a form jointly prescribed by the Administrator and the Secretary of Health, Education, and Welfare, was also deemed to be an application for Veterans' Administration death benefits on Stephanie's behalf. Accordingly, Veterans' Administration death pension was awarded as of June 17, 1970, rather than July 6, 1970, the date of receipt of a specific claim filed with the Veterans' Administration. Currently, the monthly amount of pension being paid on Stephanie's account is \$31.

There is no limitation on the time in which an application may be made for death pension. The law provides a limitation, however, regarding payment of the benefit for a period prior to the date of application. Retroactive payment is authorized from the first day of the month in which the veteran's death occurred, only if an application is received within 1 year from the date of death. Otherwise, the benefit is payable only from the date of receipt of the application. (38 U.S.C. 3010(a) and (d)).

Eligibility for non-service-connected death pension, the Veterans' Administration benefit to which the bill relates, is based on a number of factors, including financial need. With respect to a surviving child of a veteran, payment is barred if unearned annual income exceeds \$2,000. (38 U.S.C. 542(c).) Also, pension is not payable if the corpus of estate (net worth) of the survivor is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for maintenance. (38 U.S.C. 543).

In indicating it would favor relief of the sort now provided in the bill H.R. 1421, the Veterans' Administration stated:

"Considering the foregoing statutory limitations, it is suggested that H.R. 2534 be amended to provide for payment of such amount as is determined to represent the non-service-connected death pension which would have been properly payable to Stephanie Kahn for the period from November 1, 1966, through June 16, 1970, if an application for such benefit had been received within one year after the death of Martin Kahn (VA No. XC-14036054). If the measure is enacted in such revised form, the Veterans' Administration will seek the data necessary to determine the amount payable thereunder. The maximum amount would be \$1,202.38.

"The current law is such that the responsible Veterans' Administration employees had no choice but doing what they did in assigning the effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce, there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. It is believed that said law may be too rigid in cases such as this. Consequently, we are considering the desirability of legislation that would allow more equitable determinations under these and similar circumstances.

"In the light of the foregoing, the Veterans' Administration favors enactment of the provision relating to our benefit if revised as suggested."

On the basis of the facts and recommendations outlined above, the Committee finds that relief is merited in this instance, and recommends that the bill be considered favorably.

In agreement with the House of Representatives, the committee believes that the bill is meritorious, and accordingly, recommends that it be favorably considered.

Attached to and made a part of this report are the departmental reports on this legislation.

VETERANS' ADMINISTRATION,  
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,  
*Washington, D.C., November 21, 1974.*

HON. PETER W. RODINO, JR.,  
*Chairman, Committee on the Judiciary, House of Representatives,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a report on H.R. 2534, 93d Congress, "A bill for the relief of Stephanie Kahn and Barbara Heyman."

This bill would provide, in part, for a specific lump-sum payment of \$1,204 on behalf of Stephanie Kahn purporting to represent the death pension which would have been payable by the Veterans' Administration for the period from November 1, 1966, the first day of the month in which Stephanie's veteran father died, until June 1, 1970, notwithstanding that application for benefits was not filed until July 6, 1970.

The measure would also authorize a payment representing certain social security benefits. This report will be restricted, of course, to the matter of Veterans' Administration death pension.

The veteran, Martin Kahn VA No. XC-14036054), had honorable service from March 1943 to January 1946, and died on November 28, 1966. During his lifetime, he was married to one Barbara Cole who obtained a divorce from him in Mexico on December 22, 1959. One child was born of this marriage, Stephanie Lynn Kahn, born on January 20, 1957.

The child's mother, Mrs. Barbara Heyman, asserts that following the mentioned divorce, she and her daughter were estranged from members of the veterans' family, and that despite inquiries as to the veteran's whereabouts, she did not learn of his death until June 1970.

Mrs. Heyman filed an application for child's insurance benefits for Stephanie with the Social Security Administration on June 17, 1970. Under the governing statutory and regulatory provisions, that application, having been in a form jointly prescribed by the Administrator and the Secretary of Health, Education, and Welfare, was also deemed to be an application for Veterans' Administration death benefits on Stephanie's behalf. Accordingly, Veterans' Administration death pension was awarded as of June 17, 1970, rather than July 6, 1970, the date of receipt of a specific claim filed with the Veterans' Administration. Currently, the monthly amount of pension being paid on Stephanie's account is \$31.

There is no limitation on the time in which an application may be made for death pension. The law provides a limitation, however, regarding payment of the benefit for a period prior to the date of application. Retroactive payment is authorized from the first day of the month in which the veteran's death occurred, only if an application is received within one year from the date of death. Otherwise, the benefit is payable only from the date of receipt of the application. (38 U.S.C. 3010 (a) and (d).)

Eligibility for non-service-connected death pension, the Veterans' Administration benefit to which H.R. 2534 relates, is based on a number of factors, including financial need. With respect to a surviving child of a veteran, payment is barred if unearned annual income exceeds \$2,000. (38 U.S.C. 542(c).) Also, pension is not payable if the corpus of estate (net worth) of the survivor is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for maintenance. (38 U.S.C. 543.)

Considering the foregoing statutory limitations, it is suggested that H.R. 2534 be amended to provide for payment of such amount as is determined to represent the non-service-connected death pension which would have been properly payable to Stephanie Kahn for the period from November 1, 1966, through June 16, 1970, if an application for such revised form, the Veterans' Administration will seek the data Martin Kahn (VA No. XC-14036054). If the measure is enacted in such revised form, the Veterans' Administration will seek the data necessary to determine the amount payable thereunder. The maximum amount would be \$1,202.38.

The current law is such that the responsible Veterans' Administration employees had no choice but doing what they did in assigning the

effective date of the death pension award. Since the veteran and his former wife and child became estranged following the divorce, there was no way of Mrs. Heyman knowing of the veteran's death in 1966, so as to enable her to file a claim and protect the child's rights. It is believed that said law may be too rigid in cases such as this. Consequently, we are considering the desirability of legislation that would allow more equitable determinations under these and similar circumstances.

In the light of the foregoing, the Veterans' Administration favors enactment of the provision relating to our benefit if revised as suggested.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD L. ROUDEBUSH,  
*Administrator.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
*November 11, 1974.*

HON. PETER W. RODINO, JR.,  
*Chairman, Committee on the Judiciary, House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: This letter is in response to your request of February 5, 1973, for a report on H.R. 2534, a bill "For the relief of Stephanie Kahn and Barbara Heyman." Our response is directed to the provisions of the bill concerning social security benefits, and we defer to the Veterans' Administration on the portion of the bill concerned with veterans benefits.

The bill would provide that the Secretary of the Treasury pay from the Treasury \$3,487.50 to Barbara Heyman on behalf of her daughter, Stephanie Kahn. This amount, according to the bill, represents 31 unpaid monthly social security survivors' benefits for the period beginning with November 1966 and ending with May 1969.

Stephanie Kahn's father (and Barbara Heyman's divorced husband), Martin Kahn, died in November 1966. Barbara Heyman had not been aware of Martin Kahn's death until June 1970, at which time she filed an application for benefits on behalf of Stephanie Kahn. She was awarded monthly social security benefits on behalf of Stephanie retroactively for months beginning with June 1969 and is still receiving monthly benefits on Stephanie's behalf.

Barbara Heyman requested that benefit eligibility be made retroactive to the month of Martin Kahn's death, but it was determined that no valid application had been filed on Stephanie Kahn's behalf until June 1970. Under the law, social security benefits can be paid only up to 12 months before the month in which a valid application is filed.

After a review of the case, the Social Security Administration determined that social security benefits should have been paid for the 31-month period of November 1966 through May 1969 to Barbara Heyman on behalf of Stephanie Kahn. This determination was based on a finding by the Social Security Administration that a statement made by the deceased's brother in 1966 and which was reflected in a writing

in Administration files, constituted a protective application for child's insurance benefits on behalf of Stephanie Kahn. Pursuant to the new decision, social security child's insurance benefits totalling \$3,294 for the period in question have been paid to Barbara Heyman, on behalf of Stephanie Kahn. This amount consists of benefits of \$99.60 a month for 15 months—November 1966 through January 1968—and of \$112.50 a month for 16 months—February 1968 through May 1969. We are certain that \$3,294, rather than \$3,487.50 as provided in the bill, is the correct figure.

In view of the foregoing, we recommend against enactment of those provisions of the bill dealing with social security benefits.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER,  
*Secretary.*

# Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourteenth day of January,  
one thousand nine hundred and seventy-five*

## An Act

For the relief of Stephanie Kahn and Barbara Heyman.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Barbara Heyman, on behalf of Stephanie Kahn, her daughter, both of Beverly Hills, California, the sum which the Administrator of the Veterans' Administration determines is payable pursuant to law as monthly payments, from the first day of the month of the death of Mr. Martin Kahn until June 16, 1970. Such sum, which shall not exceed \$1,202.38, is allegedly due to Stephanie Kahn as Veterans' Administration pension benefits because of the death of Mr. Kahn, who was the divorced husband of Barbara Heyman and the father of Stephanie Kahn. Barbara Heyman did not apply to the Administration for such benefits within one year from the date of Mr. Kahn's death, pursuant to section 3010(d) of title 38 of the United States Code, because she was not aware of his death until June 1970. The payment of such sum shall be in full satisfaction of all their claims against the United States for such payments.*

*(b) Not more than 10 per centum of the amount appropriated in this Act shall be transferred, directly or indirectly, to any attorney or other agent as consideration for services rendered at any stage of this claim, any contract or other agreement to the contrary notwithstanding. Any person violating the provision of this subsection shall be fined not more than \$1,000.*

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

17  
June 27, 1975

Dear Mr. Director:

The following bills were received at the White House on June 27th:

S.J. Res. 98 ✓	H.R. 1421 ✓	H.R. 3382 ✓
S. 2003 ✓	H.R. 1510 ✓	H.R. 3526 ✓
H.R. 1387 ✓	H.R. 1556 ✓	H.R. 5217 ✓
H.R. 1388 ✓	H.R. 1649 ✓	H.R. 6900 ✓
H.R. 1393 ✓	H.R. 2169 ✓	H.R. 7709 ✓
H.R. 1408 ✓	H.R. 2119 ✓	H.R. 8030 ✓
H.R. 1410 ✓	H.R. 2946 ✓	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder  
Chief Executive Clerk

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C.