



Ohio Office  
7162 Reading Road, Suite 1150  
Cincinnati, Ohio 45237

1-800-488-6070  
Fax: 513.338.1502  
mid-americanpensions.org

January 3, 2017

FCA UAW Pension Board  
C/o Benefit Connect  
Benefit Connect Determination Review Team  
PO Box 5851  
Hopkins, MN 55343-5851

*Via Certified Mail, Return Receipt Requested*

**Re:** [REDACTED], *Claim for Benefits*

FCA UAW Pension Board:

This Claim for Benefits is on behalf of [REDACTED], surviving spouse of deceased participant [REDACTED]. Enclosed please find an Authorization Form signed by [REDACTED], authorizing the Mid-America Pension Rights Project to correspond on her behalf.

[REDACTED] is in pay status under a Pension Repayment Arrangement whereby she does not receive a survivor pension payment from the JEEP Corporation – UAW Retirement Income Plan (the Plan) until the deceased Participant, [REDACTED] overpayment is recouped. [REDACTED] is scheduled to receive her first full monthly payment in January, 2018. This Claim for Benefits is for [REDACTED] to begin receiving her survivor pension immediately, with a lump sum retroactive payment back to 7/1/13, with interest.

[REDACTED] is currently in pay status, and this Claim for Benefits will not affect that status.

**Factual Background:**

[REDACTED] and [REDACTED] were married in California on 6-18-1993. They immediately sent a letter to Chrysler (nka FCA) notifying of their marriage. In response to their letter to Chrysler, [REDACTED] received from Chrysler a form to fill out and send back. She did this and never heard anything more.

Two years later, in 1995, [REDACTED] received a letter from Chrysler dated 7-27-93 asking her to sign a second form and send it back. She sent a letter to Chrysler explaining that the letter dated 7-27-93 was received in August, 1995.

[REDACTED] received a letter from Chrysler Corporation acknowledging receipt of [REDACTED] letter and asking him to send a copy of the envelope that the 7-27-93 letter came



Ohio Office  
7162 Reading Road, Suite 1150  
Cincinnati, Ohio 45237

1-800-488-6070  
Fax: 513.338.1502  
[mid-americanpensions.org](http://mid-americanpensions.org)

in, so that this evidence could be presented to the Pension Board. (See copy of this 10-3-95 letter from Chrysler Corporation, attached).

██████████ sent the envelope to Chrysler, and heard nothing more from the company.

When ██████████ was gravely ill, about six months before his death, ██████████ called to check on her beneficiary status. She told the representative she was his wife, and the representative told her she was the beneficiary.

Upon ██████████ death, ██████████ sent his last pension check back, and received no information regarding the surviving spouse benefit. She then made a written claim for benefits.

Chrysler Benefit Express, on behalf of Chrysler, received her claim on 9-12-13.

A benefit determination letter was issued on 12-12-13, conditionally approving the surviving spouse benefit subject to repayment of the cost of the option, as no reduction was made during the marriage while ██████████ was receiving his benefit. ██████████ was given two repayment options – lump sum or monthly.

██████████ chose the monthly option of repayment. The total amount to be repaid is \$33,580.56. Under this arrangement, she will receive her first full monthly benefit in January, 2018.

██████████ submits the following memorandum in support of her Claim for Benefits to begin her pension payments immediately, with retroactive payments back to ██████████ date of death, with interest.

#### **Argument in Support of Claim for Benefits:**

- 1. The Miscalculation of ██████████ Pension Amount was Due to Pension Administration Error on the part of Chrysler Group/Chrysler Benefits Express.**

██████████ was receiving a single life annuity which should have been reduced after Chrysler was notified of his marriage to ██████████. This reduction would have accounted for a joint & survivor benefit for ██████████. ██████████ and ██████████ notified Chrysler of their marriage immediately after they were married.

Although forms were mailed by Chrysler, they were lost in the mail, and the ██████████ received the forms two years later, in 1995. ██████████ notified Chrysler of the lost mail regarding the marriage. This is evidenced by the letter from pension analyst ██████████ at Chrysler requesting a copy of the envelope of the lost mail, to submit to the Pension Board for approval of the status change. (See enclosed letter from Chrysler dated 10-3-95.) The ██████████ sent a copy of the envelope to Chrysler.



Ohio Office  
7162 Reading Road, Suite 1150  
Cincinnati, Ohio 45237

1-800-488-6070  
Fax: 513.338.1502  
mid-americanpensions.org

Chrysler required no further action from the [REDACTED]. When [REDACTED] called to check her beneficiary status, she was told over the phone that as wife of [REDACTED], she was the beneficiary. Apparently, the marital status was changed, but the pension adjustment was not made. This constitutes error on the part of the pension administration where [REDACTED] pension amount was not reduced appropriately to allow for a joint & survivor benefit to be paid to [REDACTED].

**Due to pension administration error, [REDACTED] survivor benefit should not be withheld to repay the overpayment made to participant [REDACTED].**

## **2. The Repayment Arrangement is contrary to IRS Revenue Procedure 2013-12.**

To allow pension plans to correct errors, The Internal Revenue Service (IRS) has put in place the Employee Plans Compliance Resolution System (EPCRS).

EPCRS is a "... comprehensive system of correction programs for sponsors of retirement plans that are intended to satisfy the requirements of § 401(a), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code (the "Code"), but that have not met these requirements for a period of time. This system, the Employee Plans Compliance Resolution System ("EPCRS"), permits Plan Sponsors to correct these failures and thereby continue to provide their employees with retirement benefits on a tax-favored basis..." *IRS Revenue Procedure 2013-12, Section 1.01.*

EPCRS includes Self-Correction. "...A Plan Sponsor that has established compliance practices and procedures may, at any time without paying any fee or sanction, correct insignificant Operational Failures under a Qualified Plan..." *IRS Revenue Procedure 2013-12, Section 1.03.*

However, IRS Revenue Procedure 2013-12 directly addresses, and disallows, the issue regarding [REDACTED], whereby her surviving spouse benefit is being withheld to recoup an overpayment to her late husband, plan participant [REDACTED].

Section 6.06(3) of EPCRS (IRS Revenue Procedure 2013-12) states, "An Overpayment from a defined benefit plan is corrected in accordance with rules similar to the Return of Overpayment and Adjustment of Future Payments correction methods described in section 2.04(1) of Appendix B." *IRS Revenue Procedure 2013-12, Section 6/06(3).*

Section 2.04(1) of Appendix B states, "...any reduction to recoup Overpayments made to the employee does not reduce the amount of the spouse's survivor benefit." *IRS Revenue Procedure 2013-12, Appendix B, Section 2.04(1).*

**According to this directive found in IRS Revenue Procedure 2013-12, it is against IRS correction procedures to recoup the overpayment from [REDACTED] benefit.**



Ohio Office  
7162 Reading Road, Suite 1150  
Cincinnati, Ohio 45237

1-800-488-6070  
Fax: 513.338.1502  
mid-americanpensions.org

3. [REDACTED] Matter Can Be Distinguished from Case Law Regarding ERISA Section 205(c)(6).

[REDACTED] case can be distinguished from *Hearn v. Western Conference of Teamsters Pension Trust Fund*, 68 F.3d 301 (9<sup>th</sup> Cir., 1995). In *Hearn*, the Trust Fund relied on the pension application wherein the participant husband falsely claimed he was not married. *Hearn v. Western Conference of Teamsters Pension Trust Fund*, 68 F.3d 301, 303 (9<sup>th</sup> Cir., 1995). The appellate court in *Hearn* held that ERISA, "Section 205 discharges the Trust Fund from liability to the extent it has made payments under the Plan." *Id.*, p. 304. ERISA Section 205(c)(6) allows the pension trust fund to rely on the spousal waiver or the claim that there is no spouse or the spouse cannot be located. *Id.* The surviving spouse pension was suspended until the Fund was where it would have been had the participant spouse honestly disclosed his marital status on his pension application. *Id.*

[REDACTED] case differs from *Hearn*. In [REDACTED] case there was no deception on the part of the [REDACTED]. They contacted Chrysler promptly with notification of their marriage. It was pension administration error which caused the overpayment to [REDACTED]. The error must be corrected under the IRS EPCRS.

**In light of the stated facts and arguments, I respectfully request that the payment arrangement be voided and that [REDACTED] immediately begin receiving her full monthly survivor pension amount with lump payment retroactive to 7/1/2013, with interest.**

Sincerely,  
Mid-America Pension Rights Project

A handwritten signature in cursive script that reads "Jean Spring".

Jean Spring  
Attorney at Law

Enclosures: Authorization Form, 10/3/95 letter from Chrysler

cc: [REDACTED]