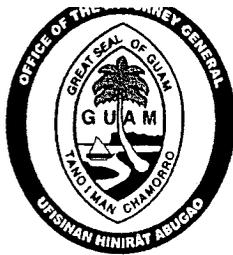


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OFFICE OF THE ATTORNEY GENERAL

August 31, 2007

Ref: DOA07-0788

INFORMATION AND GUIDANCE

PM

To: Director, Dept. of Administration

From: Deputy Attorney General

Re: **Payments to Petitioners in Rios et al. v. Camacho, et al,
Superior Court No. SP206-93**

You have asked whether the surviving spouse of a retiree who was entitled to receive a cost of living allowance under 4 GCA § 8137.1¹ (called § 8137.1) is entitled to receive a share of the judgment in the Rios case.

Section 8137.1 provides in pertinent part: "... [E]ach person entitled to receive a benefit under this Chapter (i.e., Chapter 8 of the Retirement Fund Law) shall receive . . . an annual lump sum cost of living allowance paid out of the General Fund. . . ." (parenthetical statement added). Thus, if a person is entitled to receive a benefit under Chapter 8 of the Retirement Fund Law, that person was also entitled to receive the cost of living allowance. Therefore, if a survivor of a retiree is entitled to a benefit, the survivor is also entitled to the cost of living adjustment.

The survivors of a retiree who are entitled to an annuity benefit are identified in 4 GCA § 8134. Spouses are included in the survivors entitled to receive an annuity benefit. Hence, a surviving spouse is entitled to an annuity benefit and is, therefore, entitled to receive a cost of living allowance under § 8137.1.

In the Rios case, the Court issued a judgment which states that Respondents are ordered to pay Petitioner and the COLA Class sums due for the payments under former 4 GCA

¹ 4 GCA § 8137.1 was the codification of P.L. 19-19:57, which has since been repealed.

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§ 8137.1. Surviving spouses are included in the COLA class. Because surviving spouses are members of the COLA class, the calculation of the total amount owed to the class members includes payments due to surviving spouses.

Therefore, the surviving spouses of retirees who were entitled to a cost of living allowance under §8137.1 are entitled to receive their appropriate share of the judgment in the Rios case.



J. PATRICK MASON

cc: *Shannon Taitano, Governor's Legal Counsel*