

6. Applicants acknowledge that the Sales Charge will likely be insufficient to cover all costs relating to the distribution of the Contracts. To the extent distribution costs are not covered by the Sales Charge, CIGNA Life will recover its distribution costs from the assets of the general account. These assets may include that portion of the mortality and expense risk charge which is profit to CIGNA Life, and that portion of the optional death benefit charge that is profit. Applicants represent that CIGNA Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangement will benefit the Account, the Other Accounts and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be maintained by CIGNA Life at its home office and will be made available to the Commission.

7. CIGNA Life also represents that the Accounts will invest only in open-end management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 of the 1940 Act to finance distribution expenses, to have such plan formulated and approved by either the company's board of directors or the board of trustees, as applicable, a majority of whom are not interested persons of such company within the meaning of the 1940 Act.

8. Applicants also request an order under Section 6(c) granting exemptions from Sections 2(a)(32) and 27(c)(1) of the 1940 Act and Rule 22c-1 thereunder to the extent necessary to permit the deduction from Account values of the optional death benefit charges at the following times: upon surrender; upon annuitization; or upon payment of a death benefit.

9. Section 27(c)(1) requires that periodic payment plan certificates, such as the Contracts, be redeemable securities. Section 2(a)(32) defines a "redeemable security" as one which, upon presentation to the issuer, entitles the holder to receive "approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof." Rule 22c-1 under the 1940 Act prohibits redemptions "except at a price based on the current net asset value of such security which is next computed * * *." Applicants concede that where the optional death benefit charge is imposed upon annuitization, surrender or payment of the death benefit, the net dollar amount paid upon surrender or in the form of a death benefit, or applied to the purchase of annuity units under the Contract, will be less than the full accumulation unit value of the variable

portion of the Contract. Applicants state, however, that the gross proceeds will equal the full net asset value of the variable portion of the Contract. Applicants represent that the difference between the gross proceeds and the net dollar amount paid or applied will be equal to the unpaid aggregate charges for the optional death benefit that have accrued since the most recent Contract anniversary. Applicants state that if the cost for the optional death benefit were deducted from the value of the Contract upon accrual, there would be no difference between the gross proceeds and the net amount paid or applied. Applicants argue that payment of the accrued but unpaid charges out of the gross proceeds of redemption, annuitization or a death benefit should be viewed as a delayed deduction of otherwise permitted charges. Applicants assert that the prohibitions of Sections 2(a)(32) and 27(c)(1) and Rule 22c-1 are designed to prevent diminution or dilution of investment company assets and should not, therefore, be applied to a transaction that, but for its timing, would be otherwise permissible.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemptions from Sections 2(a)(32), 26(a)(2)(C), 27(c)(1) and 27(c)(2) of the 1940 Act and Rule 22c-1 thereunder are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95-17051 Filed 7-11-95; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 95-2(9)]

Hodge v. Shalala; Workers' Compensation—Proration of a Lump-Sum Award for Permanent Disability Over the Remainder of an Individual's Working Life Under Oregon Workers' Compensation Law

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2), the Commissioner of

Social Security gives notice of Social Security Acquiescence Ruling 95-2(9).

EFFECTIVE DATE: July 12, 1995.

FOR FURTHER INFORMATION CONTACT:

Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965-1695.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims at all levels of administrative adjudication within the Ninth Circuit. This Social Security Acquiescence Ruling will apply to all determinations and decisions made on or after July 12, 1995. If we made a determination or decision on your application for benefits between June 21, 1994, the date of the Court of Appeals decision, and July 12, 1995, the effective date of this Social Security Acquiescence Ruling, you may request application of the Ruling to your claim if you first demonstrate, pursuant to 20 CFR 404.985(b), that application of the Ruling could change our prior determination or decision.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 96.001 Social Security - Disability Insurance; 96.005 Special Benefits for Disabled Coal Miners.)