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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

IN REPLY REFER TO: B-195298

DEC 13 1979

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The Honorable Lloyd Bentsen
United States Senator
912 Federal Building
Austin, Texas 78701

Dear Senator Bentsen:

We refer to your letter of June 18, 1979, concerning a question raised by Ms. Regina Romeo concerning her entitlement to an Air Force dependent's identification card and the benefits and privileges it authorizes.

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The facts as presented indicate that Ms. Romeo's stepfather died as a result of a condition he developed while a member of the Air Force. Upon the death of her stepfather Ms. Romeo, as well as her stepfather's other children, began to receive various benefits. When Ms. Romeo applied for her new military dependent identification card at Carswell Air Force Base, Ft. Worth, Texas, she was rejected on the grounds that while she was between the ages of 21-23 and a full time student, she was not more than 50 percent dependent upon her mother (the surviving spouse) for her support. Ms. Romeo does not disagree with the determination that she is not dependent upon her mother but questions the requirement that she be dependent upon her mother for her support. She indicates that she is 100 percent dependent on Social Security and Veteran's Administration benefits she receives as a result of her natural father's and her stepfather's deaths.

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Upon researching the matter we ascertained that the denial was predicated upon Air Force regulation (AFR) 30-20 (July 31, 1975). Under that regulation an unmarried stepchild over 21 but under 23 years of age had to be more than 50 percent dependent upon the surviving spouse and enrolled full time in a course of study in an accredited educational institution above high school level in order to be eligible to receive

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medical care, exchange and theatre benefits. At the time Ms. Romeo applied for her new military dependent identification card this regulation was in effect.

We have further discovered, however, that the above regulation has been amended by AFR 30-20 (June 29, 1979) (copy enclosed). The amended regulation retains the requirement that an unmarried stepchild over 21 but under 23 years of age be more than 50 percent dependent upon the surviving spouse. This requirement, however, is only applicable to a person's entitlement to "exchange" privileges. Concerning entitlement to medical care benefits and commissary privileges the amended regulation requires a person in Ms. Romeo's situation to be enrolled in a full-time course of study at an approved institution of higher learning and to have been, at the time of her stepfather's death, more than 50 percent financially dependent on him.

3 We should point out that the issuance of military dependent identification cards is a matter primarily within the jurisdiction of the service concerned. This is exemplified in the area of medical care benefits, which, while regulated by the respective services, are administered under sections 1071-1087, title 10, United States Code (1976). Under 10 U.S.C. 1084 (1976), a determination of dependence for medical care purposes by the Secretary of Defense (10 U.S.C. 1072) is conclusive and may not be reviewed in any court or by the General Accounting Office in the absence of fraud or gross negligence. The Secretary of Defense, however, may change a determination because of new evidence or for other good cause. 5

4 We have been in contact with Lieutenant Colonel Tom Wood, Office of Legislative Liaison, Office of the Secretary of the Air Force, who has suggested, in light of the recent amendment to the regulations, that we forward Ms. Romeo's claim to the Air Force for reconsideration. In accordance with this suggestion we are sending a copy of Ms. Romeo's letter which you sent us along with a copy of your letter of June 18, 1979, to Lieutenant Colonel Wood's office. The Air Force will review the matter and advise you of their determination. P. 1981

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We trust this will serve the purpose of your inquiry.

Sincerely yours,

MILTON SOCOLAR

For the Comptroller General
of the United States

Enclosure