

February 19, 1997
L-97-7

TO : Joseph M. Rivera
Hearings Officer
Bureau of Hearings and Appeals

FROM : Steven A. Bartholow
Deputy General Counsel

SUBJECT : Clarification of Legal Opinion L-90-88

This is in response to your memorandum dated February 11, 1997, wherein you asked for clarification of Legal Opinion L-90-88. The last sentence of that opinion stated as follows:

Therefore, in this case Ms. E. L. H.'s age reduction factor should be adjusted to reflect those months of nonpayment of her surviving divorced spouse's benefit due to a 100 percent public service pension offset prior to the date on which a benefit became payable to her.

You ask whether the same rule should apply to a situation where the tier I annuity component is not payable due to the current public service pension offset (two-thirds rather than 100 percent). The first sentence of the last paragraph of Legal Opinion L-90-88 sets forth the general rule that the age reduction factor for a widow(er) should be adjusted for any month in which the tier I annuity component is not payable due to the operation of the Social Security Act. If the public service pension offset reduces the tier I annuity component to zero, the widow(er)'s age reduction factor should be adjusted.