



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

March 22, 2013

Director (00)
VA Regional Offices and Centers

In Reply Refer To: 21PF
Fast Letter: 13-04

ATTN: All Pension Management Center and Veterans Service Center Personnel

SUBJ: Simplified Processing of Dependency and Indemnity Compensation (DIC)
Claims

Purpose

This letter rescinds or clarifies prior guidance on the processing of DIC claims to ensure timely delivery of benefits to vulnerable survivors who have an immediate need for supplemental income following the death of a Veteran.

Background

VBA has authority to pay DIC to a survivor for a Veteran's service-connected death under 38 U.S.C. § 1310 and 1311. VBA also has authority to pay DIC to a survivor for a Veteran's non-service connected death if the Veteran had a total service-connected disability for one of the periods prescribed in 38 U.S.C. § 1318.

Pension and Fiduciary (P&F) Service reviewed the current policies and procedures applicable to DIC claims and determined that some are obstacles to timely delivery of benefits to eligible survivors. These obstacles are not required by current law. Examples are procedures that require stations to treat "as if service-connected" deaths differently than service-connected deaths, conduct additional development to confirm information that is already in VBA systems, and order claims files when evidence in VBA systems already supports the award of benefits. Additionally, current procedures do not require screening of claims at the intake point to identify those that are immediately actionable. P&F Service has determined that eliminating certain redundant development actions and performing limited screening will expedite processing of DIC claims. The following procedures are effective the date of this letter.

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Procedures

1. Screening for evidence of service connection: Screen all DIC claims in the station's pending inventory to identify claims that the station can grant based upon evidence in VBA's records as described below.
 - a. For DIC claims where the cause of death listed on the death certificate matches one or more of the deceased Veteran's service-connected disabilities, take immediate action on the claim by referring it to a rating team for a decision without further development regarding the cause of death. Evidence of service-connected disability in the Corporate Record is sufficient to establish service connection for the underlying disability. Grant service connection for the cause of death when the death certificate shows that the service-connected disability is the principal or contributory cause of death. If the service-connected disability was a contributory cause of death, as listed on the death certificate, presume that it contributed substantially and materially to the Veteran's death. Do not develop further for the causal connection between the Veteran's service-connected disability and the cause of death.
 - b. For DIC claims where the cause of death is a "presumptive" disability, and the evidence shows the Veteran meets the particular presumptive criteria (i.e. in-country Vietnam service during the applicable period for 3.309(e) disabilities listed), take immediate action on the claim by referring it to a rating team for a decision.
 - c. For DIC claims where you already have evidence establishing that the Veteran had a service-connected disability that was continuously rated totally disabling, including a total disability rating based upon individual unemployability, for:
 - 10 or more years immediately preceding death, or
 - 5 or more years from the date of discharge, or
 - 1 or more years immediately preceding death if the Veteran was a former prisoner of war, then

Take immediate action on the claim by referring it to a rating team for a decision without further development regarding the cause of death.
 - d. Do not request or wait for the deceased Veteran's claims file if you have sufficient evidence to grant DIC. For the purposes of these DIC grants, the Corporate Record is acceptable evidence to support the grant of service connection for the cause of death if VA has granted service connection for the disability identified as the primary or contributory cause of death. This letter rescinds Fast Letter 08-38, Survivor Benefits Claims Consolidation

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Procedures, to the extent that it requires stations to obtain the Veteran's claims file prior to awarding DIC.

2. Relationship status of dependents: Concede dependency when the evidence in VA records as of the date of the Veteran's death establishes the survivor's relationship with the deceased Veteran.
 - a. Concede relationship status for dependents based upon a prior VBA determination.
 - b. Do not develop to determine marital relationship based upon prior marriages, divorces, or deaths when VBA records already contain evidence of dependency sufficient to grant DIC. Absent evidence to the contrary in current records, take immediate action on the claim by referring it to a rating team for a decision without further development regarding the relationship status of dependents.
3. Willful misconduct: VBA cannot grant DIC under section 1318 "as if" the Veteran's death was service-connected if the Veteran's death was the result of willful misconduct. Absent evidence to the contrary in VBA records or on the death certificate on the date of claim, presume that the cause of death was not due to the Veteran's willful misconduct.
4. Service-Connected Burial Benefits: Current procedures, M21-1MR, Part IV, Subpart iii, Chapter 3, Section D, 18.c. and M21-1MR, Part VII, Chapter 2, Section A, 2.B. could be read to mean that a grant of DIC under section 1318 does not establish entitlement to service-connected burial. This letter clarifies that a claimant, who is entitled to DIC under section 1318 as if the Veteran's death was service-connected, is also entitled to service-connected burial benefits. Do not develop for service connection for the cause of death in these cases for purposes of granting service-connected burial.
5. Entitlement to Dependents Educational Assistance (DEA) under 38 U.S.C. chapter 35: Under current procedures, M21-1MR, Part IX, Subpart ii, Chapter 2, Topic 1, VBA grants DEA generally if the deceased Veteran died as the result of a service-connected disability, or had a *permanent* and total service-connected disability at the time of death. These instructions could also be read to mean that section 1318 does not grant entitlement to DEA. The existence of a total disability for the periods prescribed in section 1318 is generally consistent with permanence of disability, unless VBA has evidence to the contrary. Accordingly, presume permanence of disability in these cases and grant entitlement to DEA when you grant DIC under section 1318. Do not develop for service connection for the cause of death in these cases.

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6. Entitlement to Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA): Under current procedures, M21-1MR, Part IX, Subpart i, Chapter 4, 1.c, VBA grants entitlement to CHAMPVA if the deceased Veteran died from a service-connected disability or at the time of death had a permanent and total service-connected disability. As described above, presume permanence of disability in these cases and grant entitlement to CHAMPVA when you grant DIC under section 1318. Do not develop for service connection for the cause of death in these cases.
7. These procedures are effective the date of this Fast Letter and apply to claims pending as of the date of this letter, and those received on or after the effective date of this letter.

Questions

Send questions regarding this letter to P&F Service at VAVBAWAS/CO/PMC.

/S/

David R. McLenachen
Director
Pension and Fiduciary Service