

OVERVIEW OF DEATH BENEFITS LESSON PLAN

PREREQUISITE TRAINING:	Prior to this training, the trainee must have completed the challenge prerequisite schedule for Post Determination Veterans Service Representatives (VSRs).
OBJECTIVES:	<p>The purpose of this lesson is to provide an overview of death benefits available to beneficiaries.</p> <p>Identify correctly the basic eligibility criteria for the following death benefits:</p> <ul style="list-style-type: none">• Dependency and Indemnity Compensation• Death Pension• Accrued benefits• Parents Dependency and Indemnity Compensation• Nonservice Connected burial benefits• Service Connected burial benefits• Month of Death Check
TIME REQUIRED:	.5 hours
INSTRUCTIONAL METHOD:	Interactive lecture; review exercise
MATERIALS/ TRAINING AIDS:	<ul style="list-style-type: none">▪ <i>Overview of Death Benefits</i> Trainee Handouts▪ <i>Overview of Death Benefits</i> PP Presentation
INSTRUCTOR PREPARATION:	<p>Print trainee handouts (from the website) prior to class.</p> <p>Ensure that trainees have access to, or bring their own copies of the following forms:</p> <ul style="list-style-type: none">• VA Form 21-534, Application for Dependency and Indemnity Compensation or Death Pension and Accrued Benefits by a Surviving Spouse or Child• VA Form 21-535, Application for Dependency and Indemnity Compensation by Parent(s)• VA Form 21-4182, Supplement to Social Security Form: Application for Dependency and Indemnity Compensation or

Death Pension (Including Accrued Benefits) from VA

- VA Form 21-2680, Exam for Housebound Status or Permanent Need For Regular Aid and Attendance.
- VA Form 551, Application for Accrued Benefits by Veteran's Spouse, Child, or Dependent Parent (5 years of the Veteran's death)
- VA Form 21-614, Application for Accrued Amounts of Veteran's Benefits Payable to Widow, Widower, Child, or Dependent Parents (must file within 1 year of the Veteran's death)
- VA Form 21-601, Application for Reimbursement from Accrued Amounts Due a Deceased Beneficiary, (must file within 1 year of the Veteran's death)

INTRODUCTION: Introduce yourself and inform trainees of the lesson topic.

The purpose of this lesson is to provide an overview of death benefits available to beneficiaries.

MOTIVATION: Explain to the trainees how the material covered in class is important and how it relates to their successful job performance.

- REFERENCES:**
- 38 U.S.C. 1121, *Basic entitlement*
 - 38 CFR 3.50 *Spouse and surviving spouse*
 - M21-1MR, Part III, ii, 6.7.e, *Eligibility Determinations for Death Benefits*
 - M21-1MR, IV.iii.1, *General Information on Developing Claims for Death Benefits*
 - M21-1MR, Part IV.iii.3.B.11, *Initial Awards to Dependents*
 - M21-1MR, Part IV.iii.3.B.12, *Payment of the Veteran's Benefit for the Month of Death*
 - VBA Letter 20-09-51 *Payment on Veteran's Benefit for the Month of Death*
 - 38 CFR 3.20(c)

What are the types of Death benefits? Dependency and Indemnity Compensation
Death Pension
Accrued benefits
Parents Dependency and Indemnity Compensation

Nonservice Connected burial benefits
Service Connected burial benefits
Month of Death Check

**What are the
Eligibility
Determinations for
Death Benefits?**

Relationship (38 CFR 3.50 through 38 CFR 3.60)

The claimant is a surviving spouse, child or parent who has filed for death pension or DIC. The claimant's relationship to the Veteran must be established.

Death Pension

The claimant is a surviving spouse or child who has filed for death pension.

The Veteran's service must meet the basic eligibility criteria of M21-1MR, Part III, ii, 6.7.c for pension.

DIC

The claimant is a surviving spouse, child, or parent who has filed for Dependency and Indemnity Compensation (DIC) refer the claim to the Rating activity for a determination.

- Note: If death occurred in service, see M21-1MR, Part IV, iii, 1.2 to determine if a rating is necessary.
- Exception: If a parent(s) income is excessive for DIC, disallow the claim without referral to the Rating activity.

CFR 3.805
38 CFR 3.5,
Dependency and
indemnity
compensation
M21-1MR, Part
IV.iii.1.1.d
End Product: 140
Benefit Type:
Compensation/Pension
Death

What is DIC?

Dependency and Indemnity Compensation (DIC) payments may be available for surviving spouses who have not remarried, surviving spouses who remarry after attaining age 57, unmarried children under 18, helpless children, those between 18 and 23 if attending a VA-approved school, and low-income parents of deceased service members or veterans.

DIC is a monthly payment made to a surviving spouse, child, or parent because of an SC death occurring on or after January 1, 1957, or before January 1, 1957, if the survivor elects to receive DIC in lieu of death compensation.

Note: Beneficiaries have since acquired the right to elect DIC.

Generally, to determine entitlement to DIC, VA needs evidence showing the following:

- the cause of death, and
- that the cause of death was
- related to, or hastened by, a service-connected (SC) condition, or
- related to a disease or injury that existed during active military service.

Special Allowances

Surviving spouses and parents receiving DIC may be granted a special allowance to pay for aid and attendance by another person if they are patients in a nursing home or require the regular assistance of another person. Surviving spouses receiving DIC may be granted a housebound special allowance if they are permanently housebound.

Restored Entitlement Program for Survivors

Survivors of veterans who died of service-connected causes incurred or aggravated prior to Aug. 13, 1981, may be eligible for special benefits. This benefit is similar to the benefits for students and surviving spouses with children between ages 16 and 18 that were eliminated from Social Security benefits. The benefits are payable in addition to any other benefits to which the family may be entitled. The amount of the benefit is based on information provided by the Social Security Administration.

DIC under 38 USC 1318

DIC payments also may be authorized for survivors of veterans who were totally service-connected disabled when they died, even though their service-connected disabilities did not cause their deaths.

**38 CFR 3.3(b)(4),
Improved death pension,
Public Law 95-588
M21-1MR, Part
III.ii.6.1.c
End Product: 190, end
product 140 if claim is
for both DIC and
death pension
Benefit Type:
Compensation/Pension
Death**

Improved Death Pension, PL 95-588

38 CFR 3.3(b)(4), *Improved death pension, Public Law 95-588*
M21-1MR, Part V.iii.1.E-I

Section 306 Death Pension

38 CFR 3.3(b)(3), *Section 306 death pension*
M21-1MR, Part V.i.1.3
M21-1MR, Part V.iii.1.C

What is Death Pension?

The VA Death Pension is a benefit paid to eligible dependents of deceased wartime veterans.

VA Form

VA Form 21-534, Application for Dependency and Indemnity Compensation or Death Pension and Accrued Benefits by a Surviving Spouse or Child

Who is entitled to receive the benefit?

Surviving spouse or unmarried child of the deceased Veteran

Basic Eligibility

- The deceased Veteran was discharged from service under other than dishonorable conditions, AND
- He or she served 90 days or more of active duty with at least 1 day during a period of war time. However, 38 CFR 3.12a requires that anyone who enlists after 9/7/80 generally has to serve at least 24 months or the full period for which a person was called or ordered to active duty in order to receive any benefits based on that period of service. With the advent of the Gulf War on 8/2/90 (and still not ended by Congress to this day), veterans can now serve after 9/7/80 during a period of wartime. When they do, they generally now must serve 24 months to be eligible for pension or any other benefits. But note the exclusions in 38 CFR 3.12(d), AND
- The claimant is the surviving spouse or unmarried child of the deceased Veteran, AND
- The claimants countable income is below a yearly limit set by law

38 CFR3.1000,
Entitlement under 38
U.S.C. 5121 to benefits
due and unpaid upon
death of a beneficiary
M21-1MR, Part VIII
End Product: EP165
Benefit Type:
Compensation/Pension
Death

What is Accrued Benefits?

Accrued benefits are those that are due to the beneficiary, but are not paid prior to his/her death.

If the death occurred

- Prior to December 16, 2003 - accrued benefits payable are limited to a period not to exceed two years prior to the last date of entitlement.

- After December 16, 2003 - there is no restriction in the retroactive period, regardless of the date of death.

Note: When accrued benefits are payable under *Nehmer*, there is no restriction in the retroactive period, regardless of the date of death.

VA Forms

Relationship

- VA Form 21-534, Application for Dependency and Indemnity Compensation or Death Pension and Accrued Benefits by a Surviving Spouse or Child
- VA Form 21-535, Dependency and Indemnity Compensation by Parent(s)
- VA Form 551, Application for Accrued Benefits by Veteran's Spouse, Child, or Dependent Parent (*5 years of the Veteran's death*)
- VA Form 21-614, Application for Accrued Amounts of Veteran's Benefits Payable to Widow, Widower, Child, or Dependent Parents (*must file within 1 yr of the veteran's death*)

Reimbursement

VA Form 21-601, Application for Reimbursement from Accrued Amounts Due a Deceased Beneficiary, (*must file within 1 yr of the Veteran's death*)

If the accrued benefits are filed on a form separately from VA Form 21-534, the claim is processed under EP 165.

Who is entitled to receive the benefit?

VA pays accrued benefits in the following order of priority:

1. Spouse
2. Children of the Veteran (in equal shares)
3. Dependent parents (in equal shares)

If the death occurred on or after December 1, 1962, monetary benefits *may* be authorized.

Payment *may* be made for benefits

- To which a payee was entitled at his/her death under existing ratings or decisions

Examples: Funds not paid for whereabouts unknown, funds were withheld while a fiduciary was established, etc.

OR

- Which are based on evidence in the file at the date of death and which are due but unpaid.

Examples: There was evidence of record that warranted an increase in payment, but the claimant died before a decision was made.

. To be considered "in file," the evidence must be in VA's possession 38 CFR 3.1000(d)(4) and (d)(5).

The evidence in the file at the time of death must support the existence of accrued benefits. This means evidence in VA's possession on or before the date of death and includes all information located at any VA facility, including but not limited to: ROs, Insurance Center, Medical Centers, Outpatient Clinics, and Vet Centers.

Basic Eligibility

Payment may be made for benefits when a payee was entitled at his/her death under existing ratings or decisions, or which are based on evidence in the file at the date of death and due and unpaid.

Important: The evidence in the file at the date of death must be evidence related to a claim that has not been finally adjudicated

38 CFR 3.25, Parents' dependency and indemnity compensation (DIC)—method of payment computation
M21-1MR, Part VIII
End Product: EP165
Benefit Type:
Compensation/Pension
Death

What is Parents DIC

Parents' DIC is an income-based monthly benefit for the parents, or parent, of a military service member or Veteran (hereafter referred to as "Veteran") who died from a disease or injury incurred or aggravated while on active duty or active duty for training, OR an injury incurred or aggravated in line of duty while on inactive duty for training, OR a service-connected disability.

Who Are Eligible Parents?

The term “parent” includes biological, adoptive, and foster parents. A foster parent is a person who stood in the relationship of a parent to the Veteran for at least one year before the Veteran’s last entry into active duty.

38 CFR 38 CFR

3.1600, *Payment of burial expenses of deceased veterans*

M21-1MR, Part VII.2

End Product: EP160

Benefit Type:

Compensation/Pension Death

What is Burial Benefits?

VA burial allowances are partial reimbursements of an eligible Veteran's burial and funeral costs. When the cause of death is not service-related, the reimbursements are generally described as two payments: (1) a burial and funeral expense allowance, and (2) a plot interment allowance.

Non Service Connected

- In receipt of pension or compensation at time of death.
- In receipt of military retired pay in lieu of compensation.
- Had, at time of death, original or reopened claim pending and has been found entitled to compensation or pension prior to date of death.
- Died while hospitalized by VA.
- Died while traveling under proper authorization at VA expense to or from specified place for purpose of examination, treatment or care. (M21-1, Part III, 13.08)

Service Connected

- Rating board must prepare a favorable rating decision granting service connection for cause of death (direct or indirect).
- All claims should be considered a claim for service connection even though not placed in issue.

Time Limits for Making Claims

Concerning service-connected deaths, there is no time limit for filing reimbursement claims. In other deaths, claims must be filed within two years after permanent burial or cremation.

Note: If burial expenses were paid by the deceased's employer or a state agency, the burial allowance will not be reimbursed to those making interment arrangements.

**Payment of the
Veteran's Benefit for
the Month of Death**

Payment of the Veteran's Benefit for the Month of Death

Under *Public Law (PL) 104-275*, Section 506, if the surviving spouse of a Veteran who dies after December 31, 1996, is *not* entitled to death benefits for the month of Veteran's death, then he/she is entitled to a one-time payment of the benefit the Veteran would have received for the month of death.

ADDITIONAL REFERENCES



Dependency and Indemnity Compensation

38 U.S.C. 1121
38 U.S.C. 1122
38 U.S.C. 1304
38 U.S.C. 1310
38 U.S.C. 1312
38 U.S.C. 1311(e)
38 U.S.C. 5304(b)
38 U.S.C. 101(14)
38 U.S.C. 103
M21-1MR, Part III.ii.6.7
M21-1MR, Part III.iii.5.E.23
M21-1MR, Part IV.i.1
M21-1MR, Part IV.iii.1.1.d
M21-1MR, Part IV.iii.5.F.26
M21-1MR, Part IV.iii.5.F.32
38 CFR 3.4(c)
38 CFR 3.5
CFR 3.22
CFR 3.55
CFR 3.153
CFR 3.211
CFR 3.312
CFR 3.351
CFR 3.402
CFR 3.657

Death Pension

38 CFR 3.3(b), *Pension for survivors*
M21-1MR, Part III.ii.6.1.c
M21-1MR, Part III.ii.6.7.d
M21-1MR, Part IV.iii.3.B
M21-1MR, Part V.i.3.D.15

M21-1MR, Part V.ii.2

Accrued and Non-negotiated Benefits

38 U.S.C. 5310.38
38 U.S.C. 5101(b)
38 U.S.C. 512138
38 CFR 3.114(a)
38 CFR 3.1000 to 3.1009
M21-1MR, Part VIII,
Accrued Benefits
Zevalkink v. Brown, 6 Vet.
App. 483 (1994)

Parents Dependency and Indemnity Compensation

38 CFR 3.25
38 CFR 3.27
38 CFR 3.59(b)
38 CFR 3.404
38 CFR 3.504
38 CFR 3.660(b)
M21-1MR, Part III.iii.5.J.53.b
M21-1MR, Part V.i.1.4
M21-1MR, Part V.iii.1.D.21-27

Burial and Plot Allowance

38 U.S.C. 2302
38 U.S.C. 2307
38 U.S.C. Chapter 238
38 CFR 3.1600 through 3.1612
M21-1MR, Part VII.2.A

Nonservice-connected Death Burial Allowance

38 U.S.C. 2302
38 CFR 3.1600(b)
M21-1MR, Part VII.2.A.3
M21-1MR, Part VII.2.B.8

Plot Allowance

38 U.S.C. 2302
38 U.S.C. 2303(a)
38 U.S.C. 2303(b)
38 U.S.C. 2307
38 CFR 3.1600(f)
38 CFR 3.1604(c) and (d)
M21-1MR, Part VII.4