

Veterans Benefits Administration



*Pension and
Fiduciary Service*

January 2018

**Dependency and Indemnity
Compensation (DIC) for
Surviving Spouses and
Children**



Objectives

- Recognize a claim for Dependency and Indemnity Compensation (DIC)
- Determine the requirements necessary to establish entitlement to DIC
- Determine the steps required to develop for marital relationship
- Identify other issues related to DIC
- Understand a child's entitlement to DIC



References

- M21-1, Part IV, Subpart iii, Chapter 1- Evolution and Entitlement - Dependency and Indemnity Compensation (DIC)
- M21-1, Part IV, Subpart iii, Chapter 2, Section A - Rating Dependency and Indemnity Compensation (DIC) - Rating DIC and Death Compensation Claims
- M21-1, Part IV, Subpart iii, Chapter 3 - Authorization and Notification in DIC and Death Compensation Claims
- M21-1, Part III, Subpart iii, Chapter 5, Section E – Establishing Marital Relationship in Survivors Cases
- M21-1, Part III, Subpart iii, Chapter 5, Section F – Establishing a Child’s Age and Relationship



Define DIC

- Dependency and Indemnity Compensation (DIC) is defined as 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.
 - to a surviving spouse or child because the Veteran had been rated as totally disabled due to an SC disability prior to his/her death, typically for at least ten years, per 38 U.S.C. 1318, or
 - to a surviving spouse, child, or parent because of death due to VA medical treatment, per 38 U.S.C. 1151.



Identify VA Forms 21-534, 21-534EZ, 21-534a

- Surviving spouses and children can apply for DIC on the following forms:
 - *VA Form 21-534, Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child*
 - *VA Form 21-534 EZ, Application for DIC, Death Pension, and/or Accrued Benefits*
 - *VA Form 21-534a, Application for DIC by a Surviving Spouse or Child – In-Service Death Only*



DIC Eligibility

- Do we have evidence of Veteran's death?
- Do we have the Veteran's cause of death?
- Is relationship to the Veteran established?



Identify Laws Under Which DIC Can Be Paid

- DIC can be paid under three different 38 U.S.C. laws
 - 38 U.S.C. 1310 (a)
 - 38 U.S.C. 1318
 - 38 U.S.C. 1151

DIC Under U.S.C. 1310 (a)



- Generally, to determine entitlement to DIC, VA needs evidence showing:
 - the cause of death, and
 - that the cause of death was related to, or hastened by:
 - incurred or aggravated by, an SC disability, or
 - related to a disease or injury that existed during active military service.



DIC Under U.S.C. 1318

- 38 USC 1318 requires a Veteran be either:
 - rated 100% 10 years preceding death (includes IU),
 - rated 100% at separation from service at least 5 years preceding death, or
 - rated 100% at least 1 year before death and a former POW

- Effective July 7, 2014, VA automatically pays 38 U.S.C. 1318 DIC to an eligible surviving spouse, without a claim, when VA is able to determine eligibility based on evidence of record as of the date of the Veteran's death. A surviving spouse must file a claim for other DIC benefits.



DIC Under U.S.C. 1318 (cont'd 1)

- The following disabilities qualify for payment of DIC under 38 U.S.C. 1318:
 - a disability acquired under 38 U.S.C. 1151
 - after discharge from service as a result of treatment in a Department of Veterans Affairs (VA) medical facility, or
 - as a result of vocational rehabilitation training under any VA-administered law, and
- disabilities for which disability compensation was granted for paired organs or extremities under 38 U.S.C. 1160.
 - after discharge from service as a result of treatment in a VA medical facility, or
 - as a result of vocational rehabilitation training under any VA-administered law.



DIC Under U.S.C. 1318 (cont'd 2)

- Evaluations that provide entitlement to benefits under 38 U.S.C. 1318 include total evaluations based on
 - individual unemployability (IU) under 38 CFR 4.16 and 38 CFR 3.22 disabilities for which disability compensation was granted for paired organs or extremities under 38 U.S.C. 1160, and
 - a disability acquired under 38 U.S.C. 1151
 - after discharge from service as a result of treatment in a VA medical facility, or
 - as a result of vocational rehabilitation training under any VA-administered law.




Automatic Generation of 38 U.S.C. 1318 DIC Payment

- **Step 1:** Automatic Generation of 38 U.S.C. 1318 DIC Payment
- **Step 2:** During the process, VA systems search for a spouse established on the Veteran's award.
- **Step 3:** If there is a surviving spouse established on the award for at least one year, and evidence that 38 U.S.C. 1318 DIC benefits exist, VA sends an automated letter informing him or her:
 - that he or she will receive 38 U.S.C. 1318 DIC payments
 - of additional survivor and burial benefits he or she may be entitled to, and
 - that he or she must apply for these additional benefits with an application.



Automatic Generation of 38 U.S.C. 1318 DIC Payment (cont'd)

- **Step 4:** VA systems wait 6 days to ensure there is no notification that 38 U.S.C. 1318 DIC should not be paid.
- **Step 5:** If, after the 6 day waiting period, information is ...
 - not received to indicate the 38 U.S.C. 1318 DIC payment should not be paid, then the surviving spouse receives a check for the 38 U.S.C. 1318 DIC payment.
 - is received that indicates the surviving spouse is not entitled to this payment, then the automatic payment terminates.



Obtaining Evidence Relating the Cause of Death to an SC Condition

- Develop for evidence listed in 38 CFR 3.211 that constitutes proof of death.
- When acceptable evidence cannot be obtained, the fact that death occurred may still be conceded under the provisions of 38 CFR 3.211(f). These cases must be
 - fully developed for facts and circumstances that support a presumption of death, and
 - submitted to the rating activity



DIC under 38 U.S.C. 1151

- 38 U.S.C. 1151 provides for the payment of DIC for death that is:
 - not the result of the Veteran's willful misconduct, and
 - attributable to
 - hospital care, medical or surgical treatment, or examination furnished the Veteran under any law administered by the Secretary, either by a Department of Veterans Affairs (VA) employee or in a VA facility as defined in 38 U.S.C. 1701(3)(A)
 - participation in vocational rehabilitation training under 38 U.S.C. Chapter 31, or
 - participation in compensated work therapy (CWT).



Obtain Evidence to Support a Claim for DIC

- Evidence to support a claim for DIC may be obtained from:
 - The electronic claims folder, if service connection for a disease or injury was previously established,
 - corporate record
 - VA medical center treatment reports or VA outpatient clinic records,
 - Service treatment records, or
 - Private doctor or hospital treatment records.



Obtain Evidence to Support a Claim for DIC (cont'd 1)

- Send the claimant a Section 5103 notice development letter requesting medical evidence showing the Veteran's death was caused by service when
 - there is not already sufficient evidence of record to grant DIC, and
 - service connection for the cause of death is specifically claimed, or
 - the claimant is filing for Parents' DIC.

Exceptions: Do not develop for service connection for the cause of death if the claimant

- does not meet relationship requirements to establish entitlement to DIC, or
- submits a VA Form 21P-534EZ application, as the notice has already been provided.



Obtain Evidence to Support a Claim for DIC (cont'd 2)

Once any necessary development is complete, refer the claim to the rating activity for a decision on the issue of DIC.

Important: Some survivor claims may be referred to the rating activity as soon as they are received, without development, if:

- any conditions listed on the death certificate under the cause of death or contributing factors matches one or more of the deceased Veteran's SC disabilities
- the cause of death is a presumptive disability and the Veteran meets the presumptive criteria per 38 CFR 3.309, or
- the requirements are met for DIC under 38 U.S.C. 1318.



Determining Marital Relationship

- Verify a marital relationship
- Identify information the surviving spouse needs for filing
- Remarriage of a surviving spouse
- Marriage dates requirement



Verify a Marital Relationship

- 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. Absent evidence to the contrary in current records
 - do not develop to determine marital relationship based upon prior marriages, divorces, or deaths, and
 - take immediate action on the claim by referring it to a rating team for a decision.



Verify a Marital Relationship (cont'd)

- A surviving spouse's statement of marital status and history may be considered sufficient if the statement does not contain contradictory information and it contains substantially complete information about the marital history of the Veteran and the surviving spouse.
 - To the extent possible, information about the marital status may be obtained via telephone.
 - If contradictory information cannot be resolved by a review of the evidence of record, the claimant should be asked to furnish dependency evidence



Identify Information the Surviving Spouse Needs for Filing

- Primary evidence of a valid marriage consists of a copy or abstract of the public record of a marriage, or a copy of the church record of marriage, containing sufficient data to identify the:
 - parties to the marriage
 - date and place (city and State, county and State, or (if the marriage took place in a foreign country) city and country) of the marriage, and
 - number of prior marriages, if shown on the official record.
- We also must have the spouse's Social Security number.



Remarriage of a Surviving Spouse

- If a surviving spouse remarries on or after age 57, he/she may retain eligibility for certain VA benefits under PL 108-183.



Marriage Dates Requirement

- Under 38 U.S.C. 1310 (a):
 - Claimant was married to Veteran one year or more prior to death of Veteran
 - A child was born
 - of the marriage, or
 - prior to the marriage
 - The claimant was married to the Veteran before 15 years after the termination of the period of service in which the injury or disease causing the death of the Veteran was incurred or aggravated.



Marriage Dates Requirement (cont'd)

- Under 38 U.S.C. 1318:
 - Claimant was married to Veteran one year or more prior to death of Veteran
 - A child was born
 - of the marriage, or
 - prior to the marriage



Other Issues Related to DIC

- Additional monetary benefits
- Survivor Benefit Plan (SBP)



Additional Monetary Benefits

- On top of the standard DIC rate, additional benefits are also paid for:
 - Surviving spouse who was married to the Veteran for 8 years prior to the Veteran's death, and the Veteran was 100% disabled during those full 8 years
 - Each dependent child under 18
 - Each helpless child over 18
 - Aid and Attendance entitlement
 - Housebound entitlement
 - 2-year transitional benefit, if there are one or more children under the age of 18 on award



Survivor Benefit Plan (SBP)

- Effective September 21, 1972
- Established under PL 92-425 for:
 - Retired service personnel, or
 - Commissioned officers of the
 - Public Health Service (PHS) or
 - National Oceanic and Atmospheric Administration (NOAA)
- Handled by:
 - Defense Finance and Accounting Service (DFAS) for survivors of Army, Navy, Air Force, and Marine Corps retirees, and
 - U.S. Coast Guard (USCG) for survivors of USCG, PHS, or NOAA retirees.



Payments to a Claimant Entitled to Both SBP and DIC

- Surviving spouse:
 - cannot receive full SBP and DIC benefits concurrently
 - Entitled to only the amount of SBP in excess of the basic DIC rate payable
 - *Exception*: there is no bar to full payment of SBP and DIC, without offset of either benefit, when a surviving spouse is entitled to DIC by virtue of having remarried after age 57
- Child or parent:
 - Entitled to the full amount of SBP, since there is no bar against full payment of both benefits for those dependents



Handling an Overpayment of SBP

- If SBP was paid to a surviving spouse entitled to DIC, the Department of Veterans Affairs (VA) offsets any overpayment of SBP from the DIC award in an amount not greater than the basic DIC payable.

Exception: Under 38 U.S.C. 1311(e), there is no bar to full concurrent payment of SBP and the basic DIC rate when a surviving spouse is entitled to DIC under 38 CFR 3.55(a)(10) by virtue of having remarried after age 57.



Reviewing for Potential Entitlement to SBP

- Review of SBP entitlement should be completed prior to generating an original DIC award to a surviving spouse

- Potential eligibility exists if the deceased Veteran was:
 - Retired, or
 - On active duty but eligible for retirement



Paying Full DIC Benefits Without Withholding

- Review the Veterans Information Solution (VIS) screen
- If the surviving spouse is in receipt of SBP, but the following is true, then pay full DIC benefits
 - The surviving spouse has been receiving SBP for 12 months or less, and
 - The current SBP effective date is 10 years or more from the date of the Veteran's death.

Important: Claims processors will still be required to submit the PTIVA form to DFAS notifying them that DIC has been paid in full.



Paying Full DIC Benefits Without Withholding (cont'd)

- This does not apply to USGC Veterans
- In all other cases regarding potential entitlement to SBP, VA must await a response from DFAS. However, claims processors may pay DIC as of the date last paid and continue the claim at authorization until a response is received. After a response is provided by DFAS, finalize the DIC award appropriately.
- The current SPB effective date can be found in VIS under the SURVIVIOR BENEFIT PLAN INFORMATION, under the CURRENT SBP EFFECTIVE DATE.



Handling Cases With No Potential Entitlement to SBP

- If there is no potential entitlement to SBP, the VSR should enter “No SBP payable” in the remarks field of the DIC award.
- If there is any question as to whether or not SBP is payable, contact the applicable Retired Pay Center (RPB)



Coordinating the Payment of DIC With DFAS

- Before paying full DIC to a surviving spouse, determine:
 - Whether he/she is receiving SBP benefits, and if so,
 - Whether payment of DIC will create an overpayment

Note: Many PMC employees have access to DFAS's Annuity Pay Sub-system (APS), and access to VIS, which provides a consolidated view of eligibility and benefits data from VBA and DoD. This system often contains the information required to make the determinations referenced above without making direct contact with DFAS. When it does not, or when access to APS or VIS does not exist, either finance or a VSR must fax a request to DFAS using the PTIVA case form.



Coordinating the Payment of DIC With DFAS (cont'd)

- If a request is faxed to DFAS, you may pay DIC as of date last paid and continue the claim at authorization until a response is received.
- After a response is provided by DFAS, finalize the DIC award appropriately.
- If DFAS does not respond within 10 workdays, follow up by telephone and document on VA Form 27-0820.
- Must still send the PTIVA to DFAS notifying them that DIC has been paid in full.



Action to Take to Complete an SBP Offset

Stage	Who Is Responsible?	Description
1	VSR	<ul style="list-style-type: none">Generates DIC award, andforwards to authorizer for review.
2	Authorizer	<ul style="list-style-type: none">Reviews award for accuracy, andforwards the RPC payment information to the finance activity to request that they create a debt (offset) to recoup the SBP overpayment.
3	Finance	<ul style="list-style-type: none">Creates a debt in the amount requested, andnotifies Authorizer of completion.
4	Authorizer	<ul style="list-style-type: none">Reviews corporate to verify that the debt was created, andauthorizes the award.



Child's Entitlement to DIC

- The categories of children eligible for DIC benefits are:
 - Biological
 - Adopted or
 - Step child of the Veteran



Child's Entitlement to DIC (cont'd)

- A child must also be unmarried **and either**:
 - Under the age of 18,
 - Between age 18 and 23 and attending an approved course of education (school age child), or
 - Seriously disabled before the age of 18 (a rating will be required for this determination).

Note: If the child is a school age child we must have VA Form 21-674 in file before



Processing a Claim for DIC for a Child

- In order to process a claim for DIC for a child of the Veteran, we require:
 - Full first and last name,
 - date of birth,
 - location of birth (city and state),
 - social security number of the child, and
 - complete address of the child (this may be the address of the surviving spouse).
- Accept a claim filed by a surviving spouse who does not have entitlement as a claim for any child or children in his/her custody named in the claim.



Summary

- ✓ Recognize a claim for Dependency and Indemnity Compensation (DIC)
- ✓ Determine the requirements necessary to establish entitlement to DIC
- ✓ Determine the steps required to develop for marital relationship
- ✓ Identify other issues related to DIC
- ✓ Understand a child's entitlement to DIC



Questions

