Pension and fiduciary service

PMC VSR Intermediate Core Course

Phase 5: Proficiency Development  
Part 1(b): Basic Eligibility

Determine Dependency Eligibility: Child

Trainee Guide

May 2024

Determine Dependency Eligibility: Child

Lesson Overview

| Topic | Description |
| --- | --- |
| Time Estimate: | 2.5 hours |
| Purpose of the Lesson: | This lesson is part of the entry-level curriculum, Core Course for PMC VSRs. The purpose of this lesson is to prepare you to determine if a claimant meets the eligibility requirements of a child of a Veteran. |
| Prerequisite Training Requirements: | Prior to taking this lesson, trainees must complete PMC VSR Core Course Phases 1–4 and Phase 5.1(a). |
| Target Audience: | This lesson is for entry level PMC VSRs. |
| **Lesson References:** | * Compensation and Pension Knowledge Management (CPKM) * 38 CFR 3.24 (Improved Pension Rates – Surviving Children) * 38 CFR 3.57 (Child) * 38 CFR 3.204 (Evidence of Dependents and Age) * 38 CFR 3.461 (Dependency and indemnity Compensation) * 38 CFR 3.660 (Dependency, Income and Estate) * 38 CFR 3.667 (School Attendance) * M21-1 VII.i.1.A (General Information on Relationship and Dependency * M21-1 VII.i.3.A (Establishing a Child’s Age and Relationship) * M21-1 VII.i.3.B (Biological Children, Adopted Children, and Stepchildren) * M21-1 VII.i.3.C (Marriage o a Child) * M21-1 VII.i.3.D (Children with Two Veteran-Parents) * M21-1 IX.iii.1.E.4 (Suriving Child Entitled to Survivors Pension in Their Own Right) * M21-1 X.ii.6.B. (A Child’s Permanent Incapacity for Self-Support) * **Dependency Eligibility Requirements** job aid |
| Lesson Objectives: | By the end of this lesson you will be able to:   * Determine dependency eligibility for a child of a Veteran. * Define child for VA purposes. * Determine DIC dependency eligibility requirements for a child of a Veteran. * Determine dependency eligibility requirements for a helpless child of a Veteran. * Determine pension (Veteran and Survivors) dependency eligibility requirements for a child of a Veteran. * Determine what to develop for a child of a Veteran. |
| Knowledge Check: | Phase 5.1(b) Determine Dependency Eligibility: Child Knowledge Check |
| What You Need: | * Trainee Guide * Access to VBA Intranet * Access to CPKM * Access to the following job aids from VSR Assistant:   + **Dependency Eligibility Requirements** job aid   + **Dependency Eligibility: Child Notes Page** |

| PowerPoint Slides | Notes |
| --- | --- |
| Determine Dependency Eligibility: Child |  |
| **Lesson Objectives**  By the end of this lesson you will be able to:   * Determine dependency eligibility for a child of a Veteran. * Define child for VA purposes. * Determine DIC dependency eligibility requirements for a child of a Veteran. * Determine dependency eligibility requirements for a helpless child of a Veteran. * Determine pension (Veteran and Survivors) dependency eligibility requirements for a child of a Veteran. * Determine what to develop for a child of a Veteran. |  |
| **Why it Matters!**   * **The course Determining Dependency Eligibility: Child** is important because dependent children (with or without the surviving spouse) may be eligible to receive benefits based on an established relationship to the deceased Veteran in their own right.   + VA may pay additional DIC to a surviving spouse for children that VA recognizes as a child of the Veteran on whose death a DIC award is based. |  |
| **Child Dependency VA Forms**   * VA Form 21P-534 (Application for DIC, Survivors Pension and/or Accrued Benefits) * VA Form 21P-534a, Application for Dependency and Indemnity Compensation by a Surviving Spouse or Child- In-Service Death Only * VA Form 21-686c (Application Request To Add and/or Remove Dependents) * VA Form 21-674 (Request for Approval of School Attendance) |  |
| **Definitions (1 of 2)**   * The term ***child*** of the Veteran means an unmarried person who is a legitimate child, a child legally adopted before the age of 18 years, a stepchild who acquired that status before the age of 18 years and who is a member of the Veteran's household or was a member of the veteran's household at the time of the veteran's death, or an illegitimate child; and   + under the age of 18 years; or who before reaching the age of 18 years, became permanently incapable of self-support; or * Who, after reaching the age of 18 years and until completion of education or training (but not after reaching the age of 23 years) is pursuing a course of instruction at an educational institution approved by VA |  |
| **Definitions (2 of 2)**   * An ***interlocutory decree of adoption*** is a decree of adoption that is not final until some future point in time, or future events take place. * An ***adoptive placement agreement*** is an agreement between adoptive parents and an agency authorized by law to arrange adoptions. * ***Stepchild*** refers to the legitimate or illegitimate child of a Veteran’s spouse.  It also refers to the child of a *surviving spouse* whose marriage to a Veteran VA has deemed valid. * **Schoolchild** refers to a Veteran’s child who is between the ages of 18 and 23 and attending an accredited educational institution. |  |
| **Required Elements to Establish a Child**  Before VA may pay benefits to or for a child, a claimant must provide VA with the child’s:   * name * Social Security number (SSN), if one has been assigned * date of birth (month, day and year) * birthplace (city and State, or city and country), and * relationship to the Veteran * child must be unmarried |  |

| PowerPoint Slides | Notes |
| --- | --- |
| Surviving Child (1 of 2)  A surviving child is entitled to Survivors Pension in their own right only if   * the surviving child is not in the custody of the surviving spouse (as the term custody is defined in [38 CFR 3.57(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8)), or * there is no surviving spouse who is eligible for pension, for example, the surviving spouse is deceased or remarried |  |
| Surviving Child (2 of 2)   * To find the MAPR for a surviving child claiming Survivors Pension, first determine whether the child is in the legal custody of some person. * For purposes of pension, a child is in the legal custody of the person who   + is legally responsible for the child’s support, and   + has the right to exercise parental control over the child   + Physical custody of the child is not determinative |  |

|  |  |
| --- | --- |
| **PowerPoint Slides** | **Notes** |
| Custodian/Custody   * If a surviving child does *not* have a personal custodian *or* is in the custody of an institution, determine the child’s rate of pension by subtracting the child’s IVAP from the child's MAPR in the [Survivors Pension rate tables](https://www.va.gov/pension/survivors-pension-rates/) * If the child is in custody, pay the *lesser* of the following two pension rates:   + child alone MAPR, reduced by the child’s IVAP only, *or*   + surviving spouse with one dependent MAPR, reduced by the combined IVAP of the     - child     - person having custody of the child, and     - spouse of the person having custody of the child if the child is in the custody of a biological or adoptive parent |  |
| Multiple Surviving Children in Custody  If multiple surviving children are in custody, pay the *lesser* of the following two pension rates:   * child alone MAPR times the number of eligible children, reduced by the qualifying children’s total IVAP only, *or* * surviving spouse with one dependent MAPR plus the additional amount added to the MAPR for each additional child, reduced by the combined IVAP of the   + children   + person having custody of the child, and   + spouse of the person having custody of the child if the child is in the custody of a biological or adoptive parent |  |

|  |  |
| --- | --- |
| **PowerPoint Slides** | **Notes:** |
| Not In Custody   * A child is in the custody of some person as the term “custody” is defined for current-law pension * A child is not in custody for current-law pension purposes if one of the following applies:   + both parents are deceased, and no guardian is appointed   + parental rights are terminated by legal action and the child is placed in the custody of an institution or governmental agency, or   + the child is emancipated by a court action |  |

|  |  |
| --- | --- |
| **PowerPoint Slides** | **Notes***:* |
| School Child (1 of 2)   * [*VA Form 21-674, Request for Approval of School Attendance*](http://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf), is an acceptable prescribed form for a request to recognize school children between the ages of 18 to 23 under the provisions for the purpose of payment of pension, or DIC * Upon receipt of a request for benefits based on school attendance not submitted on the proper form attempt to contact the claimant via telephone to gather the information necessary to complete [*VA Form 21-674*](http://www.vba.va.gov/pubs/forms/VBA-21-674-ARE.pdf) on behalf of the claimant   + if attempts to contact the claimant via telephone are unsuccessful, document the phone call attempt and handle the correspondence as a request for application |  |
| School Child (2 of 2)   * A *VA Form 21-674* can be accepted as a standard form for a school child claiming DIC in his or her own right if the child was previously on a surviving spouse’s DIC award * Discontinuation of an additional, separate award of DIC to a child attending school, or a child that is 18 years old and incapable of self-support, because of the marriage or death of that child, does not affect the surviving spouse’s award. * The death or marriage of an out-of-custody child to whom VA is apportioning DIC under [38 CFR 3.461(a)](http://www.ecfr.gov/cgi-bin/text-idx?SID=df83ae9055c842ae259731092bb71031&mc=true&node=se38.1.3_1461&rgn=div8) does ***not*** require a corresponding adjustment to the surviving spouse’s award, and the surviving spouse is ***not*** entitled to additional benefits for the child through the end of the month in which the child died or married. |  |

|  |  |
| --- | --- |
| **Point Slides** | **Notes:** |
| Effective Date: Removing Dependents (1 of 2)   * When a beneficiary requests removal of a dependent, the beneficiary must, at a minimum, provide VA with the date (month, day, and year) of the event (such as death or marriage of a child) that necessitates such action. * A notice of proposed adverse action to remove a dependent is *not* required if a beneficiary or a custodian provides VA with the evidence or information that triggers a reduction or discontinuation of benefits. |  |
| Effective Date: Removing Dependents (2 of 2)   * If a Veteran or surviving spouse is receiving additional benefits for a child, and that child dies or marries, reduce or discontinue benefits effective the earlier of the following:  first day of the month following the date of death or marriage, or * date of a previously scheduled reduction or discontinuance based on the   + child’s 18th birthday, or   + schoolchild’s     - 23rd birthday, or   + scheduled discontinuance of school attendance |  |

|  |  |
| --- | --- |
| **PowerPoint Slides:** | **Notes***:* |
| Effective Date: End-of-the-Month Rule   * The end-of-month rule applies to the total award amount paid to the Veteran or surviving spouse as the primary beneficiary. * The effective date of reduction or discontinuance of an award of current-law pension, or DIC is the last day of the month in which the event occurs *if* the reduction or discontinuance is due to the loss of a child because of marriage, adoption, death, or discontinuance of school attendance. * The last day of the month in which the event took place that resulted in the loss of a dependent represents the ***last*** date benefits are payable to or for the dependent. |  |
| Effective Date: Child’s Marriage (1 of 2) |  |

|  |  |
| --- | --- |
| **PowerPoint Slides** | **Notes***:* |
| Effective Date: Child’s Marriage (2 of 2)   * Adjust a survivors benefits because of a child’s marriage if a surviving spouse is receiving payments on account of the married child, or the married child is receiving an apportioned share of a surviving spouse’s award   + If notice of marriage is for a child deemed permanently incapable, remove the child from the award effective the first day of the month following the month in which the marriage occurred   + Upon receipt of notice of the marriage of a child deemed permanently incapable of self-support, who VA is paying benefits to, discontinue the child’s award effective the first day of the month in which the marriage occurred |  |

|  |  |
| --- | --- |
| **PowerPoint Slides** | **Notes***:* |
| What is a Helpless Child for VA Purposes?   * A helpless child is a Veteran’s child who is permanently incapable of self-support through his/her own efforts due to physical or mental disabilities. * A helpless child has to be *rated* by the rating team and requires evidence to support the permanent incapacity for self-support. * A helpless child must be shown to be permanently incapable of self-support by reason of mental or physical defect at the date of attaining the age of 18 years. |  |
| ****Establishing the Extent of the Child’s Disability (1 of 2)****  The information necessary to establish the extent of the child's disability includes:   * the extent to which the child is and was, prior to reaching his/her 18th birthday, physically or mentally deficient, as evidenced by factors such as his/her ability to perform   + self-care functions, and   + ordinary tasks expected of a child of that age * whether or not the child attended school and, if so, the maximum grade attended * if any material improvement in the child’s condition has occurred |  |

|  |  |
| --- | --- |
| **PowerPoint Slides** | **Notes*:*** |
| ****Establishing the Extent of the Child’s Disability (2 of 2)****  The information necessary to establish the extent of the child's disability includes:   * if the child has ever been employed and, if so, the   + nature and dates of such employment, and   + amount of pay received * whether or not the child has ever married, and * a description of the child’s present condition |  |
| Knowledge Check: Lesson Summary Review Questions    Time Allowed: 10 minutes |  |
| **Questions?**  Badge Question Mark with solid fill |  |
| **What’s Next?**   * Complete Determine Dependency Eligibility: Child course evaluation: TMS ID # 4189368 |  |