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 |
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| 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.
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| 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**
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| 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.
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| **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.
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| **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)
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| **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
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| **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.
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| **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
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| PowerPoint Slides | Notes |
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| 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
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| 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
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| **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
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| Multiple Surviving Children in CustodyIf 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
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| **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
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| **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
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| 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.
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| **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.
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| 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
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| **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.
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| Effective Date: Child’s Marriage (1 of 2) |  |

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| **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
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| **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.
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| ****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
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| **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
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| Knowledge Check: Lesson Summary Review QuestionsTime Allowed: 10 minutes |  |
| **Questions?**Badge Question Mark with solid fill |  |
| **What’s Next?*** Complete Determine Dependency Eligibility: Child course evaluation: TMS ID # 4189368
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