Pension and fiduciary service

PMC VSR Intermediate Core Course Phase 5: Proficiency Development
Part 1(d): Beyond Basic Eligibility

Determine Eligibility for DIC and Parents’ DIC

Trainee Guide

August 2024

Determine Eligibility for DIC and Parents’ DIC

Lesson Overview

| Topic | Description |
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| Time Estimate: | 3 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 PMC VSRs to determine eligibility for DIC and Parents’ DIC benefits. |
| Prerequisite Training Requirements: | Prior to taking the Determine Eligibility for DIC and Parents’ DIC lesson, you must complete the entry-level course Phases 1–4, and Phase 5 Part 1.a-c. |
| Target Audience: | This lesson is for entry-level PMC VSRs. |
| Lesson References (1 of 2): | By the end of this lesson, you should be able to:* VA Form 21P-534EZ, Application for DIC, Survivors Pension, and/or Accrued Benefits
* **VA Form 2P1-535, Application for Dependency and Indemnity Compensation by Parent(s) (Including Accrued Benefits and Death Compensation When Applicable)**
* VA Form 21-674, Request for Approval of School Attendance
* VA Form 21P-524, Statement of Person Claiming to Have Stood in Relation of Parent
* 38 U.S.C. 1151 (Benefits for Persons Disabled by Treatment or Vocational Rehabilitation)
* 38 U.S.C. 1310 (Deaths Entitling Survivors to Dependency and Indemnity Compensation)
* 38 U.S.C. 1311(a)(2) (Dependency and Indemnity Compensation to a Surviving Spouse)
* 38 U.S.C. 1318 (Benefits for Survivors of Certain Veterans Rated Totally Disabled at Time of Death)
* 38 CFR 3.5 (Dependency and Indemnity Compensation)
* 38 CFR 3.10 (Dependency and Indemnity Compensation Rate for a Surviving Spouse)
* 38 CFR 3.22 (DIC Benefits for Survivors of Certain Veterans Rated Totally Disabled at Time of Death)
* 38 CFR 3.211 (Death)
* 38 CFR 3.358 (Compensation for Disability or Death from Hospitalization, Medical or Surgical Treatment, Examinations or Vocational Rehabilitation Training)
* 38 CFR 3.702 (Dependency and Indemnity Compensation)
* M21-1 VII.i.2.D.1. (Establishing a Valid Marriage in Survivors Cases)
* M21-1 VII.i.2.E.13.a. Benefits for a Surviving Spouse Who Remarries Upon Attaining Age 55
* M21-1 VII.i.2.D.4.a. (Laws Under Which DIC Is Payable)

M21-1 VII.i.2.D.4.b (DIC Under 38 U.S.C. 1310[a])* M21-1 VII.i.3.A.1. (General Requirements to Be Considered a Child)
* M21-1 VII.i.4.A. (Establishing Parental Relationship)
* M21-1 XII.i.1.A.1. (Overview of DIC)

M21-1 XII.i.1.A.1.a. (Definition: DIC)M21-1 XII.i.1.A.1.h (DIC Under 38 U.S.C. 1318) * M21-1 XII.i.2.A.1. (DIC Under 38 U.S.C. 1310 and 1318)
* M21-1 XII.i.2.A.2. IV.iii.1.B.2 (DIC Benefits Under 38 U.S.C. 1151)
* M21-1 XII.i.4.B.1.a (Additional Allowance if Veteran was Totally Disabled for Eight Years)
* M21-1 XII.i.4.B.1.c. (Additional Allowance for Having Minor Children)
* M21-1 IX.i.1.4. (Entitlement Requirements and Development for Parents’ DIC)
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| Lesson References (2 of 2): | * M21-1 IX.iii.1.A.4. (Pension and Parent’s DIC Award Effective Dates and Payment Dates)
* M21-1 II.ii.3.1.b. (Jurisdiction of Claims Involving a Special Mission or Circumstance)
* M21-1 IX.iii.1.D (Parents’ DIC)
* **M21-1 IX.iii.1.D.1.i. (Entries for Parents’ DIC)**
* **Claim Types** job aid
* **Dependency Eligibility Requirements** job aid
* **Dependency Eligibility: Spouse** job aid
* **DIC Eligibility Requirements** job aid
* **Parents’ DIC Eligibility Requirements** job aid
* **Pension Systems and Applications** job aid
* **Ready to Rate** job aid
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| Technical Competencies: | * Program Benefits and Eligibility (PMC VSR)
* Processing Claims (PMC VSR)
* VBA Applications (PMC VSR)
* Income Counting and Net Worth
 |
| Knowledge Check | Phase 5.1(d) Determine Eligibility for DIC and Parents’ DIC Knowledge Check |
| Lesson Objectives: | By the end of the lesson, you should be able to:* Determine whether the surviving spouse, dependent child, or parent meets the eligibility criteria for DIC
* Determine whether the claimant is claiming DIC under 38 USC 1310, 1318, or 1151
* Determine whether the evidence of death is on file
* Determine whether cause of death is on file
* Determine the relationship to a Veteran for the purpose of receiving DIC benefits
* Determine eligibility for DIC claim
* Determine eligibility for parents’ DIC claim
* Develop a general understanding of DIC Claims related to the PACT Act
 |
| What You Need: | * Trainee Guide
* Slides
* Access to CPKM
* Access to VBMS-A academy mode
* Access to the following job aids from VSR Assistant:
	+ **Claim Types** job aid
	+ **Dependency Eligibility Requirements** job aid
	+ **Dependency Eligibility: Spouse** job aid
	+ **DIC Eligibility Requirements** job aid
	+ **Parents’ DIC Eligibility Requirements** job aid
	+ **Pension Systems and Applications** job aid
	+ **Ready to Rate** job aid

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| PowerPoint Slides | Notes |
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| Determine Eligibility for DIC and Parents’ DIC |  |
| Lesson Objectives By the end of this lesson, you should be able to:* Determine whether the surviving spouse, dependent child, or parent meets the eligibility criteria for DIC
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* Develop a general understanding of DIC Claims related to the PACT Act
 |  |
| DIC Claim VA Forms & Checklist (1 of 3)* VA Form 21P-534EZ (Application for DIC, Survivors Pension, and/or Accrued Benefits)
* VA Form 21P-535 (Application for Dependency and Indemnity Compensation by Parent(s) (Including Accrued Benefits and Death Compensation When Applicable)
 |  |
| DIC Claim VA Forms & Checklist (2 of 3)* VA Form 21P-524, Statement of Person Claiming to Have Stood in Relation of Parent
* VA Form 21-674 (Request for Approval of School Attendance)
	+ VA Form 21-674 can be used as a standard form for a school child claiming DIC in his/her own right ONLY if the child was previously on the surviving spouse’s DIC award
 |  |
| DIC Claim VA Forms & Checklist (3 of 3)* Death Requirements
	+ Evidence Showing:
		- Cause of death, and
		- That the cause of death was
		- Related to, or hastened by S/C condition, or
		- Related to a disease or injury that existed during active military service
* Proof of the Veteran’s death as explained in 38 CFR 3.211
* Relationship established to Veteran
* Service Treatment Records (STRs) and all other relevant records (Veteran’s claims folder)
 |  |
| Probability of Service-Connected Death* A reasonable probability of service-connected (SC) death exists if, based on a rating decision made during the Veteran’s lifetime, one or more of the following exists:
	+ service connection (SC) was granted for a condition affecting any vital organ
	+ the death certificate lists at least one of the Veteran’s SC disabilities as a principal or contributory cause of death, or
	+ the Veteran was rated 100 percent for an SC disease or disability, or entitled to individual unemployability (IU)
 |  |
| Definition: DIC Basic***Dependency and Indemnity Compensation*** (DIC) is a monthly payment made to a surviving spouse, child, or parent because of an SC death that occurred* on or after January 1, 1957, or
* before January 1, 1957, if the survivor elects to receive DIC in lieu of Death Compensation, per [**38 U.S.C. 1310**](https://www.law.cornell.edu/uscode/text/38/1310)
* 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 10 years, per [**38 U.S.C. 1318**](http://www.law.cornell.edu/uscode/text/38/1318), or
* to a surviving spouse, child, or parent because of death due to VA medical treatment, per [**38 U.S.C. 1151**](http://www.law.cornell.edu/uscode/text/38/1151)
 |  |
| DIC Under USC 1310* DIC is payable under 38 USC 1310 when:
	+ the principal or contributory cause of death shown on the death certificate matches one or more of the deceased Veteran’s SC disabilities
	+ SC was granted for a condition affecting any vital organ and the provisions of [38 CFR 3.312(c)(3) or (4)](https://www.ecfr.gov/cgi-bin/text-idx?SID=274075b2cdc7686d39a3adb52a9b5dda&mc=true&node=se38.1.3_1312&rgn=div8) apply, or
* the cause of death is a presumptive disability, and the evidence shows the Veteran meets the particular presumptive criteria
 |  |
| DIC Under 38 USC 1318* Pay DIC to a surviving spouse or children in the same manner as if death were SC, if a Veteran was in receipt of, or entitled to receive, disability compensation for an SC disability totally disabling for
	+ 10 or more years immediately preceding death
	+ a continuous period of not less than 5-years from the time of separation from service until death, or
	+ 1 or more years immediately preceding death if the Veteran was a former prisoner of war (FPOW)
 |  |
| DIC Under 38 USC 1318: Automation* 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
* Automated 38 U.S.C. 1318 DIC is processed under end product (EP) 149
 |  |
| Entitlement to DIC Under 38 USC 1318* Evaluations that provide entitlement to benefits under 38 USC 1318 include total evaluations based on:
	+ individual unemployability under [38 CFR 4.16](http://www.ecfr.gov/cgi-bin/text-idx?SID=912d34bd3c00306076b2cd8627004de7&node=se38.1.4_116&rgn=div8) and [38 CFR 3.22](http://www.ecfr.gov/cgi-bin/text-idx?SID=912d34bd3c00306076b2cd8627004de7&node=se38.1.3_122&rgn=div8)
	+ disabilities for which disability compensation was granted for paired organs or extremities under 38 USC 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
 |  |
| DIC Under 38 USC 1151* DIC can be awarded if the Veteran’s death was attributable to:
* Hospital care, medical or surgical treatment, or examination furnished the Veteran under law administered by the Secretary,
* Participation in vocational rehabilitation training
* Participation in compensated work therapy (CWT)
* Claimant must specifically raise issue the Veteran’s death was caused by carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault of VA
	+ Cannot be inferred by VSR or RVSR
 |  |
| Effective Dates: DIC Under 38 USC 1151* The effective date of entitlement to DIC under 38 USC 1151 is the
	+ first day of the month in which the Veteran’s death occurred, if the claim is received within one year after the date of death, or
	+ date of receipt of the claim, if the claim is received one year or more after the date of death
 |  |
| Entitlement to DIC Under 38 USC 1151* P&F Service makes a determination as to entitlement and sends notice to the field office
	+ The RO is responsible for returning the  [*VA Form 10-2633*](http://vaww.va.gov/vaforms/medical/pdf/vha-10-2633-fill.pdf) to the Veterans Health Administration Office of the Medical Inspector
* If P&F Service establishes entitlement to DIC and if a claim has been received, take appropriate rating and award action
* If P&F Service establishes entitlement to DIC and if a claim is not of record, send an application to any dependents who may be entitled to benefits
* If P&F Service determines that entitlement does not exist, and a claim has been received, take appropriate rating and denial action
 |  |
| Cause of Death* **Cause of death is needed to determine if the Veteran:**
	+ Died while on active duty, active duty for training, or inactive duty for training
	+ Died from service-connected illness or disabilities
	+ **Died due to carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault of VA**
* Verifying evidence and cause of death of a Veteran is important because parents may only receive benefits if proof of death shows the Veteran’s cause of death
 |  |
| Develop for Cause of Death* 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
	+ SC for the cause of death is specifically claimed, or
	+ the claimant is filing for Parents’ DIC
* Do *not* develop for SC 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, as the notice has already been provided
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| PowerPoint Slides | Notes |
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| Children Entitled to DIC * Minor child (under 18) on surviving spouse DIC award if unmarried child is determined to be:
	+ Biological child of Veteran
	+ Legally adopted child of Veteran
	+ Stepchild of Veteran
* A separate DIC award for a school child if:
	+ between 18 and 23 years of age, and
	+ attending a VA-approved school, and not receiving Dependents’ Educational Assistance (DEA) or Fry Scholarship
	+ Helpless child 18 or older
	+ Rated permanently incapable of self-support by the rating activity
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| Remarriage of Surviving Spouse* Effective January 1, 2004, a surviving spouse who remarries upon attaining age 57 remains eligible for DIC
* A surviving spouse who remarries upon attaining age 57, but before December 16, 2003, is eligible for DIC if the claim for DIC was received before December 16, 2004
* Do not reinstate or apply continuous payment of DIC to a surviving spouse who remarried upon attaining age 55, but before age 57, **effective earlier than January 5, 2021**
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| DIC: Additional Allowance (8&8 Criteria)* For Veterans who died on or after January 1, 1993, an additional monthly allowance is payable if at the time of death, the Veteran was:
	+ Receiving or entitled to receive compensation for a service-connected disability rated totally disabling (including IU) for a continuous period of at least eight years, and
	+ The surviving spouse was married to the Veteran for those same eight years
 |  |
| Rating Review (1 of 2)**Route Claim to rating board WITHOUT development if…*** The Veteran died from Amyotrophic Lateral Sclerosis (ALS) / Lou Gehrig’s (if Vet has 90 days of continuous active service)
* The Veteran was SC at 100% for a vital organ
* The Veteran died of a SC condition
* The Veteran was 100 percent SC or IU for at least 10 years preceding death, or 5 years if 100 percent or IU from date after discharge from service, or 1 year if 100 percent or IU and a former prisoner of war
* STRs and C-File not required if any of these conditions are met
 |  |
| Rating Review (2 of 2)* If there is a co-pending 160, SC death development may be required for the 160 before sending the 140 to the rating board
* Develop for special issues special issues (Asbestos, Camp Lejeune, Fire-Related STRs, etc.)
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| Activity: DIC Benefits Under 38 U.S.C. 1310, 1318, and 1151 - QuestionsAccess the **DIC Eligibility Requirements** job aid* Which DIC benefit(s) requires a service-connected death?
* Which DIC benefit(s) has a marriage dates requirement?
* Which DIC benefit(s) cannot be inferred by the PMC VSR or RVSR?
* Which DIC benefit(s) does VA automatically pay benefits to without a claim?
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| Practice Exercise—DIC under 1310, 1318 and 1151 * Instructions:
	+ Divide into groups of three.
	+ Access Claim 2 or scenario provided by the instructor.
	+ Use the following job aids:
		- **Dependency Eligibility Requirements** job aid
		- **Dependency Eligibility: Spouse** job aid
		- **DIC Eligibility Requirements** job aid
	+ Use the worksheet to determine whether the Claim 2 meets the eligibility requirements for a DIC claim under 38 U.S.C. 1310, 1318, or 1151
	+ Be prepared to discuss the rationale for your answers.

Time allowed: 20 minutes |  |
| DIC Claims Related to the PACT Act* Review the submitted claim to confirm the application was received on the appropriate prescribed form, and the claim is a PACT Act-related claim
* If potential entitlement to DIC retroactivity is shown, but a proper reevaluation election has not been received, solicit for a VA Form 21P-534EZ or VA Form 21P-535 in the notification letter and inform the claimant they could be entitled to retroactivity
* When processing DIC claims for reevaluation of a previously denied PACT Act-related claim for DIC use the corporate record in SHARE, and/or VBMS, to identify the date of claim of a previously established EP 140, or the dates of claim of any subsequent EP 020, and use these dates as a basis to review documents in the claims folder
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| PowerPoint Slides | **Instructor Activities** |
| DIC and Parents’ DIC: What’s the Difference?Factors that differ between DIC and Parents’ DIC (PDIC) include Relationship, where for DIC it is for the Eligible Spouse or Child whereas for PDIC it is for eligible parents. The second factor is income, where DIC is not an income-based benefit whereas PDIC is an income-based benefit. The third factor is IVAP calculation, where for DIC there is no IVAP calculation whereas for PDIC the PMC VSR performs calculations manually. The fourth factor is marital status, where for DIC marital status determine eligibility of a surviving spouse whereas for PDIC consideration of marital status determines the amount of the award. |  |

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| PowerPoint Slides | Notes |
| Parents’ DIC Characteristics* **Income-based benefit**
* **Payable to a parent of a** Service member/ Veteran **who:**
	+ **Died under 38 USC 1310 (SC Death)**
	+ **Died under 38 USC 1151 (VA Death)**

NOTE: Parents are not eligible for DIC granted under 38 USC 1318. |  |
| Parents’ DIC Eligibility CriteriaChecklist with the following:  Parents’ DIC eligibility criteria, Evidence of Veteran’s death is on record, Cause of death is on record, Parental relationship to Veteran is established, and Parental IVAP is below limit |  |

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| PowerPoint Slides | Notes |
| Parental Relationship to Veteran Answers**What are the eligibility requirements for establishing a parental relationship?****Parent is determined to be one of the following:**BiologicalAdoptedFoster* + - Relationship must have started prior to Veteran’s 21st birthday and lasted at least one continuous year
		- Completed VA Form 21P-524, Statement of Person Claiming to Have Stood in Relation of Parent
* There is no evidence of abandonment by the parent
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| **PowerPoint Slides** | **Instructor Activities** |
| **Definition of Parental Relationship to Veteran*** **Parent:** an individual’s legal status with respect to the Veteran, that is, whether the claimant may be recognized as the Veteran’s biological, adoptive, or foster parent
* **Foster parent:** a person who stands in place of a Veteran’s parent for a continuous period of at least one year
* **Parent for VA purposes:** the person who **last** bore the relationship of parent prior to Veteran’s entry into active-duty military service
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| Parents’ DIC Income Eligibility ProcessIncome eligibility process for Parents’ DIC purposes involves the following considerations: * Calculate on calendar-year basis (no initial year reporting period)
* Determine marital status
* Promulgate a separate award for each parent
* Count income types specific to parents’ DIC
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| PowerPoint Slides | Notes |
| Class Activity—Parents’ DIC Income Eligibility Process* Instructions:
	+ Work as a class.
	+ Access Claim 3 or scenario provided by the instructor.
	+ Navigate to the **Parents’ DIC Eligibility Requirements job aid.**
	+ Use the worksheet to record income and expense information

Time allowed: 25 minutes |  |

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| PowerPoint Slides | Notes |
| Practice Exercise—Parents’ DIC * Instructions:
	+ Divide into groups of three.
	+ Access Claim 4 or scenario provided by instructor.
	+ Use **Parents’ DIC Eligibility Requirements** job aid
	+ Use the worksheet below to determine whether the Claim 4 meets the eligibility criteria for a parents’ DIC claim.
	+ Use the worksheet to record income and expense information

Time allowed: 25 minutes |  |
| DIC Eligibility Criteria Review *DIC Eligibility criteria: Evidence of Veteran’s death is on record, Cause of death is on record, and  Relationship to Veteran is established* |  |
| **Knowledge Check: Lesson Summary Review****Time Allowed: 10 minutes**  |  |

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| PowerPoint Slides | Notes |
| **What’s Next*** TMS Evaluation Determine Eligibility for DIC and Parents’ DIC using **(TMS# 4408457)**
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**DIC under 1310, 1318 and 1151—Worksheet Eligibility Requirements for DIC—Claim 2**

1. Does the claim contain a completed VA Form 21P-534 or 21P-534EZ?
2. Is the claim for DIC under 38 USC 1310?
	1. Why or why not?
3. Is the claim for DIC under 38 USC 1318?
	1. Why or why not?
4. Is the claim for DIC under 38 USC 1151?
	1. Why or why not?
5. Is the evidence of Veteran’s death on file?
6. Is the cause of Veteran’s death on file?
	1. What is the evidence?
7. Is the death service-connected?
	1. What is the evidence?
8. Have the STRs been provided?
	1. Requested?
9. Can dependency eligibility be determined based on evidence provided?
	1. Explain why or why not.

1. Is the marriage dates requirement met?
	1. Why or why not?
2. Are all the other requirements met?
3. Does the Enhanced DIC apply to this claim?
	1. Why or why not?

**Parents’ DIC—Worksheet Eligibility Requirements for Parents’ DIC—Claim 3**

1. Does the claim contain a completed VA Form 21P-535 or 21P-534EZ?
2. Is the claim for DIC under 38 USC 1310 or 1151?
	1. What is your rationale?
3. Is the evidence of Veteran’s death on file?
4. Is the cause of Veteran’s death on file?
5. Is the death service-connected?
6. Can the parental relationship to Veteran be established?
	1. What is your rationale?
7. Is the IVAP within the limits for parents’ DIC rate?
	1. Show your work.

**Parents’ DIC—Worksheet Eligibility Requirements for Parents’ DIC—Claim 4**

1. Does the claim contain a completed VA Form 21P-535 or 21P-534EZ?
2. Is the claim for DIC under 38 USC 1310 or 1151?
	1. What is your rationale?
3. Is the evidence of Veteran’s death on file?
4. Is the cause of Veteran’s death on file?
5. Is the death service-connected?
6. Can the parental relationship to Veteran be established?
7. What is your rationale?
8. Is the IVAP within the limits for parents’ DIC rate?
	1. Show your work.

**Appendix**

DIC and Parents’ DIC: What’s the Difference?



**Parents’ DIC Eligibility Criteria**



**DIC Eligibility Criteria**

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