



DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, D.C. 20420

July 7, 2014

Director (00)
VA Regional Offices and Centers

In Reply Refer To: 21P
Fast Letter: 14-06

ATTN: All Pension Management Center and Veterans Service Center Personnel

SUBJ: Automating and Simplifying Burial Benefit Payments

Purpose

This fast letter provides information regarding changes to the Department of Veterans Affairs (VA) burial regulations. The new regulations permit VA to automate certain burial allowance payments, pay flat-rate burial and plot or interment allowances that are equal to the maximum benefit authorized by law, and establish priority of payments to certain survivors and estate representatives.

Background

Under current regulations, 38 C.F.R. §§ 3.1600-3.1612, VA administers its monetary benefits program, which includes burial allowances for service-connected (SC) and non-service-connected (NSC) deaths, the plot or interment allowance, and reimbursement of transportation expenses, based upon submission of a paper claim and reimbursement rules that do not support automation. VA rewrote the regulations in new 38 C.F.R. §§ 3.1700-3.1713 to streamline the program to ensure that VA quickly, efficiently, and accurately delivers benefits to survivors and other individuals who incur the cost of a Veteran's burial and funeral.

The new regulations establish rules that support automatic payment of burial allowances to surviving spouses of record in conjunction with the First Notice of Death (FNOD) process. VA will pay other individuals seeking reimbursement for burial expenses on a first-to-file basis.

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Applicability and Effective Date

The new regulations generally apply to burial benefit claims pending on or after the July 7, 2014, effective date. However, for priority of payments, the following specific applicability rules apply (See 38 C.F.R. § 3.1702):

- *FNOD received on or after July 7, 2014* – Automatic payments to eligible surviving spouse of record (claim not required).

- *Burial benefit claim received on or after July 7, 2014* – Payment to the first of the following individuals to file a claim for burial benefits: Veteran’s surviving spouse, survivor of a legal union with the Veteran, Veteran’s child, Veteran’s parent, executor or administrator of the Veteran’s estate, or a person acting for the Veteran’s estate if there is no executor or administrator. Other individuals and entities, such as funeral homes, are eligible claimants only if the Veterans remains are unclaimed.

- *Burial benefit claim received before July 7, 2014* – These are valid claims even though they may have been filed by a funeral home or a person who is not eligible under the new “first-to-file” rule for survivors and estate representatives.

Changes in the New Regulations

1. Eligible Claimants

Current regulations:

- Funeral director
- Any individual who used personal funds to pay burial, funeral, and transportation expenses
- Executor or administrator of the Veteran estate
- Estate of the person who paid the expenses of the Veteran’s burial or provided such services
- A person or entity, who provided a plot or interment services, and has an unpaid bill

New regulations:

- Spouse of record (automatic burial allowance payment) – Eligibility based upon notice of the Veteran’s death and evidence of record regarding the surviving spouse and the Veteran’s entitlement to compensation or pension at the time of death.
 - VA will pay the NSC or SC burial allowance to the surviving spouse of record using the FNOD screen, if VA’s systems indicate that the surviving spouse meets all of the system eligibility requirements and is listed on the Veteran’s award as a dependent.
 - VA no longer requires the spouse of record to submit a VA Form 21-530, or a statement of account, receipted bills, or a death certificate to receive a burial allowance.

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- Spouse – If the automatic burial payment has been paid and the surviving spouse is the first to file, additional benefits may be paid to the spouse for:
 - *NSC death* – Upon receipt of a VA Form 21P-530, VA may pay additional burial benefits for plot or interment allowance or transportation reimbursement.
 - *SC death* – If the Veteran did not have a total service-connected disability rating at the time of death or have a total disability rating based upon individual unemployability for the periods prescribed in 38 U.S.C. § 1318, VA may pay additional burial benefits based upon receipt of a VA Form 21P-530 and a death certificate showing that the SC disability was a contributing cause of the Veteran’s death.
- Other claimants (remains claimed but no automation)
 - If VA does not pay an automated burial allowance, it will pay the first person to file a VA Form 21P-530 certifying that he or she incurred the cost of the Veteran’s burial and a death certificate.
 - The Veteran’s surviving spouse, the survivor of a legal union between the Veteran and the survivor, the Veteran’s children (any age), the Veteran’s surviving parent or parents, or the executor or administrator of the Veteran’s estate are eligible claimants.
 - For purposes of burial benefits, a “legal union” means a formal relationship between the deceased Veteran and the survivor that existed on the date of the Veteran’s death, was recognized under the law of the State in which the couple formalized the relationship, and was evidenced by the State’s issuance of documentation memorializing the relationship.
- Other claimants (unclaimed remains) – When VA determines that a Veteran’s remains are unclaimed, VA will pay the “person or entity” that provided burial services for the remains of an unclaimed Veteran. A funeral home would qualify as an eligible “entity” if it provided burial services for the Veteran’s unclaimed remains.
- State cemetery plot allowance – For claims by a State or an agency or political subdivision of a State, VA will continue to separately pay the State cemetery plot allowance.

2. Funeral Home Claims

Current regulations:

- Funeral homes that arrange a Veteran’s burial and funeral may file a claim for burial benefits if there is an unpaid balance.

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New regulations:

- VA no longer prioritizes payment to funeral directors, funeral homes, or other service providers for unpaid funeral services, unless the Veteran's remains are unclaimed. See 38 C.F.R. § 3.1702(b)(2).

3. Burial Methods of Disposal

Current regulations:

Burial includes all the various recognized methods of disposing of the remains of deceased persons. For the purposes of payment of burial benefits, M21-1MR, VII.1.A.2.a discusses other recognized methods, including cremation, burial at sea, and medical school donation.

New regulations:

- Eight States (Maine, Colorado, Florida, Minnesota, Illinois, Oregon, Kansas and Maryland) have approved the use of alkaline hydrolysis (also known as "Green Cremation") for the disposal of remains. The new regulations add this method as an approved burial expense.

4. Automated NSC and SC Burial Claims

Current regulations:

- VA does not currently automatically process NSC or SC burial claims.

New regulations:

- Processing a NSC or SC burial claim begins when VA receives notification of the Veteran's death or a signed VA Form 21P-530, Burial Application, certifying burial, transportation, plot or interment expenses were incurred and proof of the Veteran's death.

5. Non-Automated NSC and SC Burial benefit

Current regulations:

- Processing a NSC or SC burial claim begins once VA receives a signed VA Form 21P-530, Burial Application, with proof of the Veteran's death and a receipt for burial, transportation, plot or interment expenses.

Procedures under the new regulations:

- Intake Processing Center (IPC) Processing Procedures – See Enclosure A
- Veterans Service Representative (VSR) Processing Procedures – See Enclosure B

6. Role of Rating Activity for SC Death Burial Claims

Current regulations:

- Under M21-1MR, VII.2.A.2.a, rating activity must grant service connection for cause of death either on a direct or contributory basis.

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New regulations:

- If the Veteran did not have a totally disabling rating (100 percent combined evaluation); or meet the requirements under § 1318 and the death certificate does show the SC disability as a direct or contributing factor to the Veteran's death, send the claim to the rating activity for an SC death determination.

7. Eligibility for Burial of Unclaimed Remains of Indigent Veterans

Current regulation:

- The NSC death burial allowance is payable if:
 - A State or political subdivision of a State holds an indigent Veterans remains,
 - There is no kin or other person claiming the body, or
 - The Veteran's estate does not have adequate resources to cover funeral and burial costs, and
 - Evidence of record confirms that the Veteran has met all eligibility criteria for the burial allowance.

New regulations:

- A burial allowance is payable if:
 - There is no next of kin or other person claiming the remains of the deceased Veteran, and
 - Sufficient resources are not available in the Veteran's estate to cover the burial and funeral expenses.
- A funeral home is an eligible claimant if it covered the cost of a burying the unclaimed remains of a Veteran.
- **The new regulations remove the wartime service or discharge due to disability requirements for payment of these benefits.**
- If a Veterans remains are **unclaimed**, VA no longer requires the Veteran to have been in receipt of compensation or pension at the time of death to pay burial benefits.

8. Payment of Two or More Persons

Current regulations:

- If two or more persons covered the cost of the Veteran's burial, VA divides the burial and plot or interment allowance payments according to each person's proportionate share, unless one person executes a waiver in favor of the other person.

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New regulations:

- VA will pay burial benefits to a single person (survivor or estate representative) and no longer apportion burial benefit payments among multiple claimants. It is the responsibility of the survivor or estate representative to distribute benefits received from VA.

Procedures:

- Veterans Service Representative (VSR) Processing Procedures – See Enclosure B

References

See the references to the new regulation provisions in Enclosures A and B. The new regulations, which VA published in the Federal Register on June 6, 2014, are available at <https://www.federalregister.gov/articles/2014/06/06/2014-13230/burial-benefits>.

Enclosure C is a list of affected manual provisions.

Updates

Pension and Fiduciary Service will revise the Adjudication Procedures Manual and training material to incorporate the new regulations and any procedures necessary for full implementation.

Questions

Send questions regarding this fast letter to Pension and Fiduciary (P&F) Service at VAVBAWAS/CO/PENSIONPOL&PROC. P&F Service will establish a frequently asked questions link for this fast letter on its intranet site at <http://vbaw.vba.va.gov/PENSIONANDFIDUCIARY/pension/faq.asp>

/S/
David R. McLenachen
Director
Pension and Fiduciary Service

Enclosures

Enclosure A
Intake Processing Center (IPC) Procedures

The IPC should follow the steps below when it receives a burial claim. Prior to establishing an EP 160, Claims Assistants should review VA systems to verify that the FNOD was processed.

If a burial claim is received and...	Then...	Reference
the FNOD has been processed	<ul style="list-style-type: none"> • establish EP 160* • update Corporate record, if needed • process for upfront scanning 	<ul style="list-style-type: none"> • M21-1MR Part III, subpart ii.1.B.5.c.
the FNOD has not been processed	<ul style="list-style-type: none"> • enter the FNOD • establish EP 160* • Update Corporate record, if needed • process for upfront scanning 	<ul style="list-style-type: none"> • M21-1MR, Part III, subpart ii.8.A.1.b • M21-1MR Part III, subpart ii.1.B.5.c.
a survivor's claim is already pending	<ul style="list-style-type: none"> • establish EP 160* • Update Corporate record, if needed • associate EP 160 with pending claim 	<ul style="list-style-type: none"> • M21-1MR Part III, subpart ii.1.B.5.c.
an EP 160 is already pending	<ul style="list-style-type: none"> • establish a separate EP 160* modifier for the claim, e.g., EP 161 • update Corporate record, if needed • process for upfront scanning 	<ul style="list-style-type: none"> • M21-1MR Part III, subpart ii.1.B.5.c.

Add applicable modifiers to the EP 160 as determined by your station.

Enclosure B VSR Procedures

VSRs should follow the steps below when processing a burial claim. VSRs should review VA systems to verify whether a burial claim and/or FNOD was previously processed.

If a burial claim is received and ...	Then ...	Reference
an FNOD was not previously processed and there is a surviving spouse of record	<ul style="list-style-type: none"> • Process the FNOD according to enclosure A • If there is a surviving spouse of record, process the burial claim paying plot or internment and transportation as applicable • If there is no surviving spouse of record, process the burial claim paying all applicable benefits • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • Enclosure A • 38 C.F.R. § 3.1702
an FNOD was not previously processed and there is no surviving spouse of record	<ul style="list-style-type: none"> • Process the FNOD according to enclosure A • Subsequently process the burial claim paying all applicable benefits • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • Enclosure A • 38 C.F.R. § 3.1702

<p>SC Death Claim: the surviving spouse was paid the \$300 NSC burial benefit via automation and the claim is for SC burial</p>	<ul style="list-style-type: none"> • Send the supplemental claim to the rating activity • Pay burial, plot/interment, and/or transportation, as applicable • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1704 • 38 C.F.R. § 3.1702 • 38 U.S.C. 2307
<p>NSC or SC Death Claim: the surviving spouse was paid the \$300 or the \$2000 benefit via automation and a claim for non-service-connected or service-connected burial is filed</p>	<ul style="list-style-type: none"> • Pay burial, plot/interment, and/or transportation, as applicable • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1702 • 38 C.F.R. § 3.1703(b)(2) • 38 U.S.C. § 2307 • 38 U.S.C. § 2302 • 38 U.S.C. § 2402 • 38 U.S.C. § 2303(b)(2)
<p>a burial claim was not previously processed via automation and the claim is for non-service-connected burial</p>	<ul style="list-style-type: none"> • Pay burial, plot/interment, and/or transportation, as applicable • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1705
<p>a burial claim was not previously processed via automation and the claim is for service-connected burial</p>	<ul style="list-style-type: none"> • Send the claim to the rating activity • Subsequently process the burial claim paying all applicable benefits • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1704

<p>the Veteran did not have a totally disabling rating (100 percent combined evaluation) or meet the requirements under § 1318 and the death certificate does show the SC disability as a direct or contributing factor to the Veteran's death</p>	<ul style="list-style-type: none"> • send the claim to the rating activity • Subsequently process the burial claim paying all applicable benefits • Pay the first eligible living person to file 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1704
<p>there are multiple burial claimants</p>	<ul style="list-style-type: none"> • The claim with the earliest date stamp is the proper claimant • Deny the claims that have later date stamps and process the claim that has the earliest date stamp • It is the responsibility of the proper claimant to distribute benefits as necessary 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1702(b)
<p>the claim is for an Veteran's unclaimed remains and there is no verification of wartime service or the Veteran was not discharged from service due to disability</p>	<ul style="list-style-type: none"> • Do not develop for wartime service verification or service treatment records • Subsequently process the burial claim paying all applicable benefits 	<ul style="list-style-type: none"> • 38 C.F.R. § 3.1708 • 38 C.F.R. § 3.1709

<p>the claim is received from a funeral home, on or after July 7, 2014, and the claim is NOT for an unclaimed Veteran's remains</p>	<ul style="list-style-type: none">• Disallow the claim	<ul style="list-style-type: none">• 38 C.F.R. § 3.1702(b)
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Enclosure C
M21-1MR Manual Provisions Affected

MR Citation	Content	Reason
M21-1MR, VII.1.B.5.b M21-1MR, VII.1.A.2.g	Eligible Claimants	Automated Burial payments paid to the surviving spouse of record once VA receives the FNOD. If the spouse of record initially receives NSC burial, the spouse must follow the first to file procedures to receive additional benefits e.g. SC burial and transportation expenses. All other claimants must submit a VA Form 21P-530 with death certificate and funeral receipt(s) in accordance with the first to file burial regulation.
M21-1MR, VII.1.B.6.a M21-1MR, VII.1.A.2.g	Claims by Funeral Directors	Funeral Director reimbursement now falls under Veterans whose remains are unclaimed, when VA records show no surviving spouse of record.
M21-1MR, VII.1.A.2.a	Burial Methods of Disposal	Currently 8 states have approved the use of alkaline hydrolysis also known as "Green Cremation" for use in the disposal of remains. The new burial regulations approve the use where lawful. When adjudicating burial claims that show the alkaline process, check to verify the process occurred in one of the 8 states. If not, conduct a search of the State's cremation laws to verify burial/cremation law changes.

MR Citation	Content	Reason
M21-1MR, VII.2.A.2.a	Role of Rating activity	VA can now issue automated SC death payments via the FNOD screen, to the spouse of record without rating activity, if the Veteran was rated totally disabled for one or more service-connected disabilities and in accordance with 38 U.S.C. § 1318(b) for TDIU.
M21-1MR, VII.2.A.3.c	Eligibility for Unclaimed Remains	This regulation remains the same.
M21-1MR, VII.1.D.11	Payment to Two or More Persons	VA will no longer distribute payments to multiple claimants. VA will pay only one claimant, the surviving spouse of record or under first to file. It is the claimant's responsibility to distribute payments.