

## Department of Veterans Affairs

## § 3.5

See § 3.30. Relationship of net worth to pension entitlement. See § 3.274.

[44 FR 45931, Aug. 6, 1979, as amended at 56 FR 19579, Apr. 29, 1991; 56 FR 22910, May 17, 1991; 56 FR 25044, June 3, 1991; 56 FR 57986, Nov. 15, 1991; 68 FR 34541, June 10, 2003]

### § 3.4 Compensation.

(a) *Compensation*. This term means a monthly payment made by the Department of Veterans Affairs to a veteran because of service-connected disability, or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957, or under the circumstances outlined in paragraph (c)(2) of this section. If the veteran was discharged or released from service, the discharge or release must have been under conditions other than dishonorable.

(Authority: 38 U.S.C. 101(2), (13))

(b) *Disability compensation*. (1) Basic entitlement for a veteran exists if the veteran is disabled as the result of a personal injury or disease (including aggravation of a condition existing prior to service) while in active service if the injury or the disease was incurred or aggravated in line of duty.

(Authority: 38 U.S.C. 1110, 1131)

(2) An additional amount of compensation may be payable for a spouse, child, and/or dependent parent where a veteran is entitled to compensation based on disability evaluated as 30 per centum or more disabling.

(Authority: 38 U.S.C. 1115)

(c) *Death compensation*. Basic entitlement exists for a surviving spouse, child or children, and dependent parent or parents if:

(1) The veteran died before January 1, 1957; or

(2) The veteran died on or after May 1, 1957, and before January 1, 1972, if at the time of death a policy of United States Government Life Insurance or National Service Life Insurance was in effect under waiver of premiums under 38 U.S.C. 1924 unless the waiver was granted under the first proviso of section 622(a) of the National Service Life Insurance Act of 1940, and the veteran

died before return to military jurisdiction or within 120 days thereafter. (See § 3.5(d) as to Public Health Service.)

(Authority: 38 U.S.C. 1121, 1141)

[26 FR 1564, Feb. 24, 1961, as amended at 38 FR 21923, Aug. 14, 1973; 39 FR 34529, Sept. 26, 1974; 44 FR 22717, Apr. 17, 1979]

### § 3.5 Dependency and indemnity compensation.

(a) *Dependency and indemnity compensation*. This term means a monthly payment made by the Department of Veterans Affairs to a surviving spouse, child, or parent:

(1) Because of a service-connected death occurring after December 31, 1956, or

(2) Pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957.

(Authority: 38 U.S.C. 101 (14))

(b) *Entitlement*. Basic entitlement for a surviving spouse, child or children, and parent or parents of a veteran exists, if:

(1) Death occurred on or after January 1, 1957, except in the situation specified in § 3.4(c)(2); or

(2) Death occurred prior to January 1, 1957, and the claimant was receiving or eligible to receive death compensation on December 31, 1956 (or, as to a parent, would have been eligible except for income), under laws in effect on that date or who subsequently becomes eligible by reason of a death which occurred prior to January 1, 1957; or

(3) Death occurred on or after May 1, 1957, and before January 1, 1972, and the claimant had been ineligible to receive dependency and indemnity compensation because of the exception in subparagraph (1) of this paragraph. In such case dependency and indemnity compensation is payable upon election.

(38 U.S.C. 1310, 1316, 1317, Public Law 92-197, 85 Stat. 660)

(c) *Exclusiveness of remedy*. No person eligible for dependency and indemnity compensation by reason of a death occurring on or after January 1, 1957, shall be eligible by reason of such death for death pension or compensation under any other law administered