pay for his (or her) care and maintenance. Moneys on deposit in Personal Funds of Patients will not be used for this purpose except as authorized by the Veterans Service Center Manager under § 13.72 of this chapter.

(3) If the veteran has dependents, or more is payable under his (or her) rating, or there are funds to his (or her) credit in ''Funds Due Incompetent Beneficiaries,'' such additional amount as may be needed will be allowed on the basis of a certification by the chief officer with respect to need and amount required.

(c) Where there arises a situation as enumerated in paragraph (a)(1) of this section, apportionment to dependents will be under § 3.451.

(Authority: 38 U.S.C. 5307)

(d) Any excess funds held by the chief officer of a non-Department of Veterans Affairs institution, not necessary for the benefit of the veteran, will be returned to the Department of Veterans Affairs or to a fiduciary, if one is serving. Upon death of a veteran with no surviving heirs, excess funds will be returned to the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5502)

CROSS REFERENCES: Veterans Benefits Apportionable. See § 3.452. Payment to Chief Officer of Institution. See § 13.61 of this chapter.

[26 FR 1606, Feb. 24, 1961, as amended at 27 FR 5431, June 8, 1962; 38 FR 29076, Oct. 19, 1973; 39 FR 12100, Apr. 3, 1974; 40 FR 36329, Aug. 20, 1975; 45 FR 27436, Apr. 23, 1980; 68 FR 34543, June 10, 2003]

§ 3.853 Incompetents; estate over $25,000.

(a) Effective November 1, 1990, through September 30, 1992, where a veteran:

(1) Is rated incompetent by VA, and

(2) Has neither spouse, child, nor dependent parent, and

(3) Has an estate, excluding the value of the veteran's home, which exceeds $25,000, further payments of compensation shall not be made until the estate is reduced to less than $10,000. The value of the veteran's estate shall be computed under the provisions of § 13.109 of this chapter. Payment of compensation shall be discontinued the last day of the first month in which the veteran's estate exceeds $25,000.

(b) Where payment of compensation has been discontinued by reason of paragraph (a) of this section, it shall not be resumed for any period prior to October 1, 1992, until VA has received evidence showing the estate has been reduced to less than $10,000, or any criterion of paragraph (a) (1) or (2) of this section is no longer met. Payments shall not be made for any period prior to the date on which the estate was reduced to less than $10,000, or a criterion of paragraph (a) (1) or (2) of this section was no longer met.

(c) If a veteran denied payment of compensation under paragraph (a) of this section is subsequently rated competent for more than 90 days, the withheld compensation shall be paid to the veteran in a lump-sum. However, a lump-sum payment shall not be made to or on behalf of a veteran who, within such 90-day period, dies or is again rated incompetent.

(Authority: 38 U.S.C. 5505)

[56 FR 65853, Dec. 19, 1991, as amended at 68 FR 34543, June 10, 2003]

§ 3.854 Limitation on payments for minor.

Benefits will not be authorized to a fiduciary recognized or appointed for a child, by reason of its minority, for any period subsequent to the day preceding the date on which the child will attain its majority under the law of the State in which the child resides. Payments on or after that date, if otherwise in order, will be made direct to the child, if competent, or, if incompetent and direct payment under § 3.850 is not in order, to a fiduciary appointed for the child as a mentally incompetent adult.

[39 FR 34533, Sept. 26, 1974]

§ 3.855 Beneficiary rated or reported incompetent.

(a) *General.* Payments being made directly to a beneficiary who is or may be incompetent will not be routinely suspended pending certification of a fiduciary (or a recommendation that payments should be paid directly to the beneficiary) by the Veterans Service Center Manager or development of the issue of incompetency.