

§716.5

(and there is no other designated beneficiary) such amount shall be paid to the then living survivor or survivors listed first under paragraph (a) of this section.

(2) In case one of the beneficiaries (parents or brothers or sisters) designated by a member, pursuant to paragraph (a)(3) of this section, to receive death gratuity payment dies prior to the member's death, or after his death but prior to the time payment is made, the share which would have been paid to the deceased designee may be paid to the other person or persons designated.

[24 FR 7523, Sept. 18, 1959, as amended at 37 FR 6471, Mar. 30, 1972]

§716.5 Delegation of authority.

(a) Pursuant to the authority contained in title 10 U.S.C., section 1479, as to deaths described in section 1475 thereof, the Secretary of the Navy has delegated to commanding officers of naval commands, installations, or districts, with respect to naval personnel, and to Marine Corps commanding generals and officers in command of regiments, battalions or equivalent units and of separate or detached commands who have custody of service records, with respect to Marine Corps personnel, authority to certify for the payment of death gratuity the lawful spouse or designated beneficiary(ies) of the deceased service member who was residing with him at or near his place of duty at the time of his death, except in cases in which a doubt may exist as to the identity of the legal beneficiary. Disbursing officers are authorized to make payment of the death gratuity upon receipt of certification from the Commanding Officer.

(b) The Secretary of the Navy has delegated authority to the Chief of Naval Personnel as to naval personnel, and to the Commandant of the Marine Corps (Code MSPA-1) as to Marine Corps personnel, the authority to certify the beneficiary(ies) for receipt of payment of death gratuity in all appropriate cases of payment of death gratuity under the Servicemen's and Veterans' Survivor Benefits Act (now reenacted in 10 U.S.C. 1475-1480), including, but not limited to:

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(1) Cases in which a doubt may exist as to the identity of the legal beneficiary; and

(2) Cases in which the widow or designated beneficiary(ies) of the deceased service member was not residing with him at or near his place of duty at the time of his death.

[24 FR 7523, Sept. 18, 1959, as amended at 44 FR 25647, May 2, 1979]

§716.6 Death occurring after active service.

(a) Under title 10 U.S.C., section 1476, the death gratuity will be paid in any case where a member or former member dies on or after January 1, 1957, during the 120-day period which begins on the day following the date of his discharge or release from active duty, active duty for training, on inactive duty training, if the Administrator of Veterans' Affairs determines that:

(1) The decedent was discharged or released, as the case may be, from the service under conditions other than dishonorable from the last period of the duty or training performed; and

(2) Death resulted from disease or injury incurred or aggravated while on such active duty or active duty for training; or while performing authorized travel to or from such duty; or

(3) Death resulted from injury incurred or aggravated while on such inactive-duty training or while traveling directly to or from such duty or training.

(b) For purposes of computing the amount of the death gratuity in such instances, the deceased person shall be deemed to be entitled on the date of his death to basic pay (plus any special, incentive and proficiency pay) at the rate to which he was entitled on the last day he performed such active duty, active duty for training, or inactive duty training. A kind of special pay included is a pay increase under 10 U.S.C. 5540; see §716.1.

(c) The Department of the Navy is precluded from making payment of the death gratuity pending receipt of the determinations described in paragraph (a) of this section. In view of this, commands should insure that the medical records and reports of investigations by fact-finding bodies be submitted to the Navy Department at the earliest