

### **§ 10.33**

thereafter and before the expiration of such period.

#### **§ 10.33 Determination of dependency.**

A determination of the existence of the alleged dependency will be made upon consideration of all facts relating to dependency, and upon such investigation of such facts as may be warranted. The following facts as existing at the time of the death of the veteran, or at any time thereafter and on or before January 2, 1935, or where it is established that the veteran is deceased as provided in section 312(a), at the beginning of such 7-year period or at any time thereafter and before the expiration of such period, shall be taken into consideration in determining dependency in a given case:

- (a) Claimant's age.
- (b) Amount contributed to claimant by deceased veteran.
- (c) Value of all real and personal property owned by claimant.
- (d) Total monthly expenses of the claimant and total monthly income.
- (e) The fact that claimant did or did not receive an allotment of pay or allowance during the veteran's military or naval service.
- (f) Incapability of self-support by reason of mental or physical defect.
- (g) Any other fact or facts pertinent to the determination of dependency.

#### **§ 10.34 Proof of age of dependent mother or father.**

The mother or father of a veteran to be entitled to the presumption of dependency within the meaning of section 602(c) or section 312(c) of the Act, as amended, shall be required to submit proof of age in accordance with the requirements as set forth in regulations of the Department of Veterans Affairs.

#### **§ 10.35 Claim of mother entitled by reason of unmarried status.**

Claim of a mother for the benefits to which she may be entitled by reason of her unmarried status as outlined in section 202(c) or section 312(c)3 of the Act, as amended, shall be supported by a statement of fact, under oath, of such status, together with one of the following:

### **38 CFR Ch. I (7-1-11 Edition)**

(a) Certified copy of public record of death of the husband.

(b) Certified copy of court record of divorce decree.

#### **§ 10.36 Proof of marital cohabitation under section 602 or section 312 of the Act.**

In order to prove marital cohabitation within the meaning of that term as used in section 602(a) or section 312(c)1 of the Act, as amended, claimant shall be required to establish:

(a) A valid marriage, such marriage to be shown by the best evidence obtainable in accordance with the provisions of regulations of the Department of Veterans Affairs.

(b) The fact of living together as man and wife, with such fact to be established by:

(1) Statement of the widow or widower showing that he or she and the veteran lived together as man and wife and also showing the place or places of residence during such marital cohabitation and the approximate time of such residence; or

(2) Statement of two competent persons showing that they personally knew the claimant and veteran and that they had personal knowledge that said claimant and veteran lived together as man and wife and were recognized as such.

(c) The fact that the marital status existed at the time of the death of the veteran or where it is established that the veteran is deceased, as provided in section 312(a)1 of the Act, as amended, at the beginning of such 7-year period, such fact to be established by:

(1) Statement by claimant that he or she and the veteran had not been divorced and that there had been no annulment of the marriage.

(2) Statement of claimant that he or she was not remarried at the time of making application.

(3) Statement of two competent persons showing that they personally knew the claimant and the veteran; that they personally knew of the marriage relationship between claimant and veteran; that to the best of their knowledge and belief there had been no