

Department of State

§ 192.44

(b) A person eligible for benefits under this subsection shall not be required to separate from Government service in order to undertake the training or education. However, no educational assistance allowance shall be paid to any eligible person who is attending a course of education or training paid for under the Government Employees' Training Act and whose full salary is being paid to such person while so training.

§ 192.43 Administration of benefits.

(a) Any person desiring benefits under this part, shall apply in writing to the Director General of the Foreign Service, Department of State, Washington, DC 20502. The application shall specify the benefits desired and the basis of eligibility for those benefits. The Director General of the Foreign Service, on behalf of the Secretary of State, shall make determinations of eligibility for benefits under this part, and shall forward certified applications to the Department of Veterans' Affairs and advise the applicant of the name and address of the office in the Department of Veterans' Affairs that will counsel the eligible persons on how to obtain the benefits that have been approved. Persons whose applications are disapproved shall be advised in writing of the reason for the disapproval. Applications for foreign service nationals and their dependents shall be made with the Office of Foreign Service National Personnel, Department of State. That office will handle the administrative details and benefits using the criteria specified in this subchapter.

(b) The Department of Veterans' Affairs shall provide the same level and kind of assistance, including payments (by advancement or reimbursement) for authorized expenses up to the same maximum amounts, to spouses and children of captives, and to Principals following their release from captivity as it does to eligible spouses and children of veterans and to eligible veterans, respectively, under chapters 35 and 36 of title 38 U.S.C. The Department of Veterans' Affairs shall, under procedures it has established to administer section 1724 of title 38, U.S.C., discontinue assistance for any individual whose conduct or progress is unsatis-

factory under standards consistent with those established pursuant to such section 1724.

(c) An Advisory Board shall be established to advise on eligibility for benefits under paragraphs (c) and (d) of § 192.41. The Board shall be composed of the Under Secretary of State for Management as Chair, the Director of the Office of Medical Services of the Department of State, the Executive Director of the regional bureau of the Department of State in whose region the relevant hostile action occurred, the Director of Personnel or other designee of the applicable employing agency, and a representative of the Department of Veterans' Affairs designated by the Secretary.

(d) If an application is received from a spouse or child for extended training under § 192.41(c), the Director General of the Foreign Service of the Department of State shall determine with the advice of the Advisory Board whether the Principal, following release from captivity, is incapacitated by the captive experience—

(1) To the extent that he or she has not returned to full-time active duty and is unlikely to be able to resume the normal duties of his or her position or career, or

(2) In the event of a separation from Government service, that the Principal is unable to assume a comparable position or career, for at least six months from the date of release from captivity. If the Secretary makes such a determination, he or she may approve, within the limits of § 192.44, an application under § 192.41(c) for up to one year of education or training. If the Principal remains incapacitated, the Secretary may approve additional training or education up to the maximum authorized under 192.44.

§ 192.44 Maximum limitation on benefits.

(a) In no event may assistance be provided under this subpart for any individual for a period in excess of 45 months, or the equivalent thereof in part-time education or training.

(b) The eligibility of a spouse for benefits under paragraph (c) or (d) of § 192.41 shall expire on a date which is 10 years after the date of the release of

the captive or the death of the captive while in captivity, respectively. The eligibility of a dependent child for benefits under §192.41 (c) and (d) shall expire on the 21st birthday of such child.

Subpart F—Compensation for Disability or Death

§ 192.50 Eligibility for benefits.

(a)(1) The Federal Employees' Compensation Act (5 U.S.C. 8101 *et seq.*) provides for medical coverage and the payment of compensation for wage loss and for permanent impairment of specified members and functions of the body incurred by employees as a result of an injury sustained while in the performance of their duties to the United States. The Office of Workers' Compensation Programs (OWCP), Department of Labor, administers the program. All individuals employed by the U.S. Government as defined by 5 U.S.C. 8101(1) are eligible to apply for wage-loss and medical benefits under the FECA. Family members of such employees may apply for death benefits. An application must be made with OWCP by such individual or on behalf of such individuals, prior to the determination of eligibility or payment of any benefits under this subpart.

(2) In the case of foreign service national employees covered for work related injury or death under the local compensation plan established pursuant to 22 U.S.C. 3968, such applications should be filed with the organizational authority in the country of employment which provides such coverage. Benefit levels payable to foreign service national employees under this subpart shall be no less than comparable benefits payable to U.S. citizen employees under FECA. Eligibility determination and payment of supplemental benefits, if any, is the responsibility of the Director General of the Foreign Service for the State Department.

(b) Any death or disability benefit payment made under this section shall be reduced by the amount of any other death or disability benefits funded in whole or in part by the United States, except that the amount shall not be reduced below zero. The cash payment under §192.11(b) of subpart B is excluded from the offset requirement.

(c) Compensation under this section may include payment (whether advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subpart D of these regulations. Procedures of subpart D of these regulations shall apply in making such determinations.

§ 192.51 Death benefit.

(a) The Secretary of State or Agency Head may provide for payment, by the employing agency, of a death benefit to the surviving dependents of any eligible individual under §192.1(a) who dies as a result of injuries caused by hostile action whose death was the result of the individual's relationship with the Government.

(b) The death benefit payment for an employee shall be equal to one year's salary at the time of death. Such death benefit is subject to the offset provisions under §192.50(b) including the Federal Employees' Compensation Act. The death benefit for an employee's spouse and other eligible individuals under §192.1(b) of subpart A shall be equal to one year's salary of the principal at the time of death.

(c) A death benefit payment for an adult under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the dependent child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or dependent child.

(4) Fourth, to adult, non-dependent children in equal shares.

If there is no survivor entitled to payment under this paragraph (c), no payment shall be made.

(d) A death benefit payment for a child under this section shall be made as follows: To the surviving parents or legal guardian. If there are no surviving parents or legal guardian, no payment shall be made.

(e) As used in this section—each of the terms “widow”, “widower”, and “parent” shall have the same meaning given such term by section 8101 of title