

(3) A written selection by each legal guardian, on behalf of all of the dependents described in paragraph (b)(1) of this section for whom he or she is the legal guardian, to receive proportional death benefits under the alternative calculation as described in § 110.82(c), in place of proportional benefits available under the standard calculation as described in § 110.82(b). Written selections are described in § 110.82(c)(1);

(4) Documentation showing the deceased injured countermeasure recipient's gross employment income at the time the covered injury was sustained (*e.g.*, the decedent's Federal tax return or pay stub(s) from all employers at the time of the covered injury); and

(5) A description of all third-party payers that have paid for, or that may be required to pay for, the benefits described in § 110.82(c)(3)(i). This description must include the amount of such benefits that have been paid or that may be paid in the future. If the representative knows of no such third-party payer, he or she must so certify in writing. If, at any time, the representative becomes aware that a third-party payer may have such an obligation, he or she must inform the Secretary within ten business days of becoming aware of this information, even after benefits have been paid by the Program.

§ 110.63 Documentation a legal or personal representative must submit when filing on behalf of a minor or on behalf of an adult who lacks legal capacity to receive payment of benefits.

Before benefits will be paid by the Program to an eligible requester who is a minor or an adult who lacks legal capacity to receive payment of benefits, his or her legal or personal representative must submit the following, in addition to the documentation required under Subpart F of this part and, as applicable, §§ 110.60–110.62:

(a) For an eligible requester who is a minor:

(1) Documentation showing that the requester is a minor (*e.g.*, birth certificate); and

(2) Documentation showing that the representative is the legal guardian of the property or estate of the minor

(*e.g.*, appointment of guardianship by a court of competent jurisdiction). If a minor has more than one legal guardian, this documentation is required only of one legal guardian. In the alternative, documentation showing that the minor is considered emancipated under applicable State law. In accordance with § 110.83(b), the Program reserves the right to waive the requirement of documentation of guardianship for good cause.

(b) For an eligible requester who is an adult who lacks legal capacity to receive payment of benefits:

(1) Documentation showing that the requester is an adult who lacks this legal capacity (*e.g.*, declaration of legal incapacity issued by a court of competent jurisdiction, or comparable documentation); and

(2) A decree by a court of competent jurisdiction establishing a guardianship or conservatorship of the requester's estate under applicable State law, or durable power of attorney, if applicable. In accordance with § 110.83(b), the Program reserves the right to waive this requirement for good cause.

Subpart H—Secretarial Determinations

§ 110.70 Determinations the Secretary must make before benefits can be paid.

Before the Secretary will pay benefits under this Program, she must determine that:

(a) The requester or his or her representative submitted a completed and signed Request Form within the governing filing deadline; and

(b) The requester meets the eligibility requirements set out in this part (including a determination that a covered injury was sustained); and

(c) The requester is entitled to receive benefits from the Program. In making this determination, the Secretary will decide the type(s) and amounts of benefits that will be paid to the requester.

§ 110.71 Insufficient documentation for eligibility and benefits determinations.

In the event that there is insufficient documentation in the Request Package