Department of Veterans Affairs


of the deceased’s estate were used to purchase the headstone or marker or, if death occurred prior to December 18, 1989, to have the deceased’s identifying information added to an existing headstone or marker, and no executor or administrator has been appointed, payment may be made to a person who will make a distribution of this monetary allowance to the person or persons entitled under the laws governing the distribution of intestate estates in the State of the decedent’s personal domicile.

(2) The amount of the allowance payable is the lesser of the following:

(i) Actual cost of acquiring a non-Government headstone or marker or, if death occurred prior to December 18, 1989, the actual cost of adding the veteran’s identifying information to an existing headstone or marker; or

(ii) The average actual cost, as determined by VA, of headstones and markers furnished at Government expense for the fiscal year preceding the fiscal year in which the non-Government marker was purchased or the services for adding the veteran’s identifying information on an existing headstone or marker were purchased.

(3) The average actual cost of Government-furnished headstones and markers during any fiscal year is determined by dividing the sum of VA’s costs during that fiscal year for procurement, transportation, Office of Memorial Programs and miscellaneous administration, inspection and support staff by the total number of headstones and markers procured by VA during that fiscal year and rounding to the nearest whole dollar amount. The resulting average actual cost is published at the end of each fiscal year in the “Notices” section of the Federal Register.

(4) The following applies to joint or multiple headstones or markers:

(i) When a joint or multiple non-Government headstone or marker is purchased subsequent to the veteran’s death, the amount set forth in paragraph (e)(2)(ii) of this section shall be available as reimbursement for the cost of the veteran’s portion of the joint or multiple headstone or marker.

(ii) When a joint or multiple non-Government headstone or marker is existent at the time of the veteran’s death, the allowance payable as reimbursement under paragraph (e)(2) of this section shall be determined based on the cost of the services for adding the veteran’s identifying information.

(f) Payment of allowance prohibited.

This monetary allowance shall not be paid when a Government headstone or marker has been requested or issued under the provisions of §3.1631 (a)(2) and (b) of this chapter.

(g) Claims. There is no time limit for filing claims for monetary allowance in lieu of a Government-furnished headstone or marker.

(b) The monetary allowance in lieu of a Government-furnished headstone or marker is not payable if death occurred on or after November 1, 1990.

(Authority: 38 U.S.C. 2306(d))

Effective Date Note: At 79 FR 32658, June 6, 2014, subpart B was revised, effective July 7, 2014. For the convenience of the user, the revised subpart B text is set forth as follows:

Subpart B—Burial Benefits

Burial Benefits: General

§ 3.1700 Types of VA burial benefits.

(a) Burial benefits. VA provides the following types of burial benefits, which are discussed in §§3.1700 through 3.1712:

(1) Burial allowance based on service-connected death;

(2) Burial allowance based on non-service-connected death;

(3) Burial allowance for a veteran who died while hospitalized by VA;

(4) Burial plot or interment allowance; and

(5) Reimbursement for transportation of remains.

(b) Definition. For purposes of this subpart, burial means all the legal methods of disposing of the remains of a deceased person,
§ 3.1701 Deceased veterans for whom VA may provide burial benefits.

For purposes of providing burial benefits under subpart B of this part, the term "veteran" means the same as provided in 38 U.S.C. 101(2). A veteran must be deceased, and burial benefits for that veteran must be authorized by a specific provision of law. For purposes of the non-service-connected burial allowance under 38 U.S.C. 2302, the term "veteran" includes a person who died during a period deemed to be active military, naval, or air service under §§ 3.6(b)(7), 3.7(m) and 3.7(o).

(Authority: 38 U.S.C. 101(2), 2302, 2303, 2307, 38.600, 38.617 through 38.629 of this chapter, 38 U.S.C. 101(2). A veteran must be deceased, and burial benefits for that veteran must be authorized by a specific provision of law."

§ 3.1702 Persons who may receive burial benefits; priority of payments.

(a) Automatic payments to eligible surviving spouse. On or after July 7, 2014, VA will automatically pay a burial benefit to an eligible surviving spouse when VA is able to determine eligibility based on evidence of record as of the date of the veteran's death. VA may grant additional burial benefits, including the plot or interment allowance, reimbursement for transportation, and the service-connected burial allowance under § 3.1704, to the surviving spouse or any other eligible person in accordance with paragraph (b) of this section and based on a claim described in § 3.1703.

(b) Priority of payments—claims received on or after July 7, 2014. (1) Except for claims a State, or an agency or political subdivision of a State, files under § 3.1707, Plot or interment allowance for burial in a State veterans cemetery or other cemetery, or § 3.1708, Burial of a veteran whose remains are unclaimed, VA will pay, upon the death of a veteran, the first living person to file of those listed below:

(i) His or her surviving spouse;

(ii) The survivor of a legal union between the deceased veteran and the survivor that is not covered by paragraph (b)(1)(i) of this section. For purposes of this paragraph, legal union means a formal relationship between the decedent and the survivor that:

(A) Existed on the date of the veteran's death;

(B) Was recognized under the law of the State in which the couple formalized the relationship, and

(C) Was evidenced by the State's issuance of documentation memorializing the relationship;

(iii) His or her children, regardless of age;

(iv) His or her parents or the surviving parent; or

(v) The executor or administrator of the estate of the deceased veteran. If no executor or administrator has been appointed, VA may pay burial benefits based on a claim filed by a person acting for such estate who will distribute the burial benefits to the person or persons entitled to such distribution under the laws of the veteran's last State of residence.

(2) In the case of a veteran whose remains are unclaimed, VA will pay the person or entity that provided burial services and transportation subject to the limitations prescribed in §§ 3.1708 and 3.1709.

(3) VA will pay burial benefits to a single representative of the categories in paragraph (b)(1) of this section. VA will not divide applicable burial benefits among claimants; it is the responsibility of the recipient to distribute benefits as may be required.

(c) Priority of payments—claims received before July 7, 2014. (1) Claims for burial allowance may be executed by:

(i) The funeral director, if entire bill or any balance is unpaid (if unpaid bill or the unpaid balance is less than the applicable statutory burial allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The individual whose personal funds were used to pay burial, funeral, and transportation expenses; or

(iii) The executor or administrator of the estate of the veteran or the estate of the person who paid the expenses of the veteran’s burial or provided such services. If no executor or administrator has been appointed then by some person acting for such estate who will make distribution of the burial allowance to the person or persons entitled under the laws governing the distribution of inter-state estates in the State of the decedent's personal domicile.

(2) Claims for the plot or interment allowance (except for claims filed by a State or an agency or political subdivision thereof), under § 3.1707 may be executed by:

(i) The funeral director, if he or she provided the plot or interment services, or advanced funds to pay for them, and if the entire bill for such or any balance thereof is