§ 3.459 Death compensation.

(a) Death compensation will be apportioned if the child or children of the deceased veteran are not in the custody of the surviving spouse.

(b) The surviving spouse may not be paid less than $65 monthly plus the amount of an aid and attendance allowance where applicable.

§ 3.460 Death pension.

Death pension will be apportioned if the child or children of the deceased veteran are not in the custody of the surviving spouse. Where the surviving spouse’s rate is in excess of $70 monthly because of having been the spouse of the veteran during service or because of need for regular aid and attendance, the additional amount will be added to the surviving spouse’s share.

(a) Civil, Indian and Spanish-American wars. Where pension is payable under 38 U.S.C. 1532, 1534, or 1536 apportionment will be based on the facts in the individual case in accordance with §3.451.

(b) Section 306 and old-law death pension. Appointment of benefits provided under these pension programs will be at rates approved by the Under Secretary for Benefits except when the facts and circumstances in a case warrant special apportionment under §3.451.

(c) Improved death pension. Appointment of the benefits provided under this program shall be made under the special apportionment provision of §3.451.

§ 3.461 Dependency and indemnity compensation.

(a) Conditions under which apportionment may be made. The surviving spouse’s award of dependency and indemnity compensation will be apportioned where there is a child or children under 18 years of age and not in the custody of the surviving spouse. The surviving spouse’s award of dependency and indemnity compensation will not be apportioned under this condition for a child over the age of 18 years.

(b) Rates payable. (1) The share for each of the children under 18 years of age, including those in the surviving spouse’s custody as well as those who are not in such custody, will be at rates approved by the Under Secretary for Benefits except when the facts and circumstances in a case warrant special apportionment under §3.451. The share for the surviving spouse will be the difference between the children’s share and the total amount payable. In the application of this rule, however, the surviving spouse’s share will not be reduced to an amount less than 50 percent of that to which the surviving spouse would otherwise be entitled.

(2) The additional amount of aid and attendance, where applicable, will be added to the surviving spouse’s share and not otherwise included in the computation.