

## Department of Veterans Affairs

## § 3.55

subsequently involved in the application of this section.

[41 FR 18300, May 3, 1976, as amended at 59 FR 32659, June 24, 1994]

### § 3.54 Marriage dates.

A surviving spouse may qualify for pension, compensation, or dependency and indemnity compensation if the marriage to the veteran occurred before or during his or her service or, if married to him or her after his or her separation from service, before the applicable date stated in his section.

(a) *Pension*. Death pension may be paid to a surviving spouse who was married to the veteran:

(1) One year or more prior to the veteran's death, or

(2) For any period of time if a child was born of the marriage, or was born to them before the marriage, or

(3) Prior to the applicable delimiting dates, as follows:

(i) Civil War—June 27, 1905.

(ii) Indian wars—March 4, 1917.

(iii) Spanish-American War—January 1, 1938.

(iv) Mexican border period and World War I—December 14, 1944.

(v) World War II—January 1, 1957.

(vi) Korean conflict—February 1, 1965.

(vii) Vietnam era—May 8, 1985.

(viii) Persian Gulf War—January 1, 2001.

(Authority: 38 U.S.C. 532(d), 534(c), 536(c), 541(e), 541(f))

(b) *Compensation*. Death compensation may be paid to a surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Department of Veterans Affairs in effect on December 31, 1957, or who was married to the veteran:

(1) Before the expiration of 15 years after termination of the period of service in which the injury or disease which caused the veteran's death was incurred or aggravated, or

(2) One year or more, or

(3) For any period of time if a child was born of the marriage, or was born to them before the marriage.

(Authority: 38 U.S.C. 1102)

(c) *Dependency and indemnity compensation*. Dependency and indemnity compensation payable under 38 U.S.C. 1310(a) may be paid to the surviving spouse of a veteran who died on or after January 1, 1957, who was married to the veteran:

(1) Before the expiration of 15 years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated, or

(2) For 1 year or more, or

(3) For any period of time if a child was born of the marriage, or was born to them before the marriage.

(Authority: 38 U.S.C. 1304)

(d) *Child born*. The term *child born of the marriage* means a birth on or after the date of the marriage on which the surviving spouse's entitlement is predicated. The term *born to them before the marriage* means a birth prior to the date of such marriage. Either term includes a fetus advanced to the point of gestation required to constitute a birth under the law of the jurisdiction in which the fetus was delivered.

(e) *More than one marriage to veteran*. For periods commencing on or after January 1, 1958, where a surviving spouse has been married legally to a veteran more than once, the date of the original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(Authority: 38 U.S.C. 103(b))

[26 FR 1567, Feb. 24, 1961, as amended at 27 FR 6498, July 10, 1962; 32 FR 13224, Sept. 19, 1967; 40 FR 16064, Apr. 9, 1975; 40 FR 48680, Oct. 17, 1975; 41 FR 18300, May 3, 1976; 44 FR 22718, Apr. 17, 1979; 54 FR 31829, Aug. 2, 1989; 56 FR 5756, Feb. 13, 1991; 56 FR 57986, Nov. 15, 1991; 65 FR 3392, Jan. 21, 2000]

### § 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.

(a) *Surviving spouse*. (1) Remarriage of a surviving spouse shall not bar the furnishing of benefits to such surviving spouse if the marriage:

(i) Was void, or

(ii) Has been annulled by a court having basic authority to render annulment decrees, unless it is determined by the Department of Veterans Affairs