

108 CMR 9.00: ANNUITIES AND BURIALS

Sections

9.01: Annuities

9.02: Burial Allowance

9.01: Annuities

(1) Eligibility of Veteran. An applicant veteran who satisfies the following requirements shall be eligible to receive a special benefit payment in the form of an annuity.

(a) Is a resident of Massachusetts;

(b) ~~Meets one of the active service time requirements set forth in 108 CMR 3.023(1), or has served on active duty in the Armed Forces of the United States for a period of at least 180 days;~~

(c) ~~Has received any discharge from military service other than a dishonorable discharge. Meets the character of discharge requirements set forth in 108 CMR 3.03(2); and~~

(d) Meets the requirements for blindness, paraplegia, double amputation or other disability set forth in M.G.L. c. 115, § 6B as so certified by the VA. Proof of service and disability shall be furnished to the Secretary as per M.G.L. c. 115, § 6C; or is otherwise determined to be 100% disabled as so certified by the VA.

(e) ~~Is otherwise determined to be 100% disabled as so certified by the VA; or~~

(2) Eligibility of parent or un-remarried spouse. ~~As a parent or an un-remarried spouse of a deceased member of the Armed Forces of the United States, whose death occurred as a result of injury sustained or disease contracted during active service in time of war or insurrection or combat as set forth in 108 CMR 3.02 shall be eligible for the annuity so long as the -~~ The provisions requirements of 108 CMR 9.01(1)(a), (e), and (d) apply to were satisfied by the deceased member whose status forms the basis for the application.

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(3) Gold Star Parent or Spouse. A Gold Star Parent or Spouse is eligible for the annuity. The death of the Armed Forces member did not have to occur while that person was a Massachusetts resident, so along as the Gold Star Parent or Spouse is a resident of Massachusetts at the time of application for the annuity and maintains residency while in receipt of the annuity.

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(4) Application Procedure for Annuity Benefit.

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(a) ~~(2) Application Procedure for Annuity Benefit~~. Whenever a veterans' agent learns, or has reason to believe, that an applicant may be eligible for this annuity, the veterans' agent shall ~~notify DVS, which in turn shall provide the veterans' agent with the necessary application forms and advise him or her on processing procedures~~ take the application of the applicant in the form and/or manner prescribed by the Secretary.

(b) The annuity benefit available under 108 CMR 9.00 is paid directly to the applicant by the Treasurer of the Commonwealth on a warrant from the Comptroller. This annuity is paid in two installments, annually.

(c) Such payments shall be due and payable from the date of said parents' and surviving spouses application pursuant to M.G.L. c. 115, §6B. Said payments are not retroactive.

(5) Review of Denial of Initial Application for Annuity Benefit. Within thirty (30) days of receipt of the denial notification letter, the applicant may request a review of that denial by the Annuities Appeal Board. The Board shall be comprised of the Director of Annuities, the Director of Benefits, and the General Counsel of the Department. The determination of the Appeal Board following that review shall be final.

(6) Re-certification. The Department shall require all recipients of the annuity to be re-certified on a periodic basis. The re-certification process shall establish the following:

a. All recipients must certify and prove that they continue to reside in the Commonwealth.

b. If the recipient is the veteran, he or she must certify that he or she continues to be disabled as required by 9.01 (1) (d) or ~~(4)~~(e).

c. If the recipient is the un-remarried spouse of a deceased veteran, she or he must certify that she or he has not remarried since the death of her or his spouse.

d. All recipients must provide a current address to the Department.

(6) Failure to comply with requirements of Re-certification Process. If a recipient of the annuity fails to comply with the requirements of the re-certification process as set out in Section (5), above, the annuity shall be terminated. A recipient who is so terminated may request a review by the Secretary, who shall determine whether the recipient has satisfied the requirements of the re-certification process. The determination of the Secretary shall be final.

~~(3) Annuity Appeal. An applicant denied an annuity may appeal to the DVS Annuity Appeal Board within 30 days of receipt of the denial notification letter.~~

9.02: Burial Allowance

(1) Eligibility.

(a) A veterans' agent shall grant a special allowance for the burial of veterans and adult dependents of veterans who die without sufficient means to defray the funeral expenses, and for the burial of dependent children of a veteran if the veteran and his or her spouse, or his or her surviving spouse alone do not have sufficient means to defray funeral expenses. The veteran in whose name the burial allowance is sought shall have satisfied the military service requirements set forth in ~~108-CMR-3.023~~.

(b) In addition to the veterans in whose name burial allowances are sought pursuant to 108 CMR 9.02(1)(a), an allowance also shall be granted for the burial of the following persons:

1. A person who served in the Massachusetts State Guard established during World War II and was honorably discharged from such service; and

2. Who died without sufficient means to defray funeral expenses. An allowance shall not be granted for the burial of dependents of the persons described in 108 CMR 9.02(1)(b).

(c) A veterans' agent shall not grant a burial allowance to or for the following persons:

1. A person designated on his or her discharge papers as a conscientious objector.

2. A person who at the time of entering the federal service was a subject or citizen of a neutral country, who had filed to become a citizen of the United States and who afterward withdrew such intention under the act of congress approved July 9, 1918.

(2) Amount of Burial Allowance. A veterans' agent shall grant a burial allowance only if the total cost of the burial does not exceed certain limits, and any and all resources have been utilized to defray the cost of the burial. The amount of the burial allowance shall be \$2,000 and the ceiling on the total cost of the burial shall be \$3,000.

(3) Application Procedure.

~~(a) Within 60 days of the date of death, the veterans' agent shall file with the Secretary a burial allowance application (Form VS-9) which includes a copy of the discharge papers of the veteran in whose name the allowance is sought, a copy of the deceased veteran's death certificate, an itemized bill from the undertaker, and, where appropriate, a copy of a birth or marriage certificate to establish the relationship between the deceased and the applicant. Within three months after the date of death, the burial agent and the treasurer of the appropriate city or town shall certify to the Secretary, on a Form VS-10, Return of Expense, the amount expended on the burial. An application for burial allowance shall not be charged on monthly returns to DVS which pertain to other types of benefits.~~

(a) The person or organization that actually makes payment for the burial shall request the burial allowance from the veterans' agent of the city or town in which the decedent resided. In those cases where there is no next of kin or any person or organization able and willing to make payment for the burial, a funeral home may apply for the benefit so long as the decedent's remains are transported to the Massachusetts Veterans' Memorial Cemetery in Winchendon for interment.

(b) The burial allowance request must be made within 60 days of the date of death.

(c) The veterans' agent shall generate a burial allowance application (Form or Screen VS-9) describing all assets at the time of death if the decedent was not receiving Chapter 115 benefits at the time of death. Such assets must include any life insurance policies the decedent may have had at the time of death.

(d) The veterans' agent will review these documents and make the appropriate payment to the person or organization that paid for the burial.

(4) Reimbursement Procedure

(a) The veterans' agent shall submit a request for authorization to the Department using the standard VS-21A form or screen with the following supporting documentation:

- (1) DD Form 214 (discharge);
- (2) Proof of relation if the decedent was not a veteran, i.e. a marriage or birth certificate;
- (3) Detailed and itemized funeral bill;
- (4) Death certificate; and
- (5) Application for Burial Expense (Form VS-9).

(b) The veterans' agent will make the appropriate entry on the Request for Reimbursement (VS-6) and the Certification of Expenditure (VS-5).

(c) The Department shall provide reimbursement for 75% of the amount paid by a city or town as burial allowances.

~~(b) DVS shall provide reimbursement for 75% of the amount paid by a city or town as burial allowances.~~

REGULATORY AUTHORITY

108 CMR 9.00: M.G.L. c. 115