Recognized Survivors, Dependants, Relationships and Blind Status - War Veterans Allowance Program

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This policy replaces the following VPPM 3 policies: 2.4 Civil and Family Status; 2.4.1 Adjudication and Information Required; 2.4.2 Child; 2.4.3 Dependent Children; 2.4.4 Orphans; 2.4.5 Dependent Children and Orphans - Incapacity; 2.4.6 Dependent Children and Orphans - Course of Instruction; 2.4.7 Veterans in Their Own Right; 2.4.8 Spouse or Comon-Law Basic Recognition; 2.4.9 Involuntary Separation; 2.4.10 Recent Marriage or Common-Law Relationship; 2.4.11 Separation; 2.4.12 Legal Responsibility; 2.4.13 Common-Law Partner - Unique Situations; 2.4.14 Divorce or Ceasing to Cohabit; 2.4.15 Marriage, Remarriage or Subsequent Common-Law Relationship.

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Purpose

This policy describes the circumstances under which an additional amount of War Veterans Allowance (WVA) may be payable in recognition of certain family or domestic relationships, or by virtue of being blind.

Policy

Adjudication and Information Required

1. Section 25 of the *War Veterans Allowance Act* authorizes the Governor in Council to make regulations for the purposes and provisions contained within that Act, including:
    a. prescribing the manner of making application and the information needed;
    b. prescribing the circumstances in which a veteran and the veteran's spouse, or common-law partner, are considered involuntarily separated;
    c. requiring recipients to report changes in their family circumstances; and
    d. prescribing the meaning of “blind”.

Information Required

2. Every application must include:
    a. details of the military service of the applicant/veteran;
    b. names of the applicant’s spouse or common-law partner and dependent children, if applicable;
    c. income of the applicant and the applicant’s spouse or common-law partner;
    d. an indication as to whether the applicant/veteran is in receipt of a disability pension related to military service or has accepted a commuted pension;
    e. any other information required to determine the applicant’s eligibility for the Allowance; and
    f. a declaration signed by the applicant, or their representative, declaring that:
        i. all statements are true to the best of their knowledge;
        ii. no required information has been concealed;
        iii. the statements are made to obtain a WVA payment; and,
        iv. upon request, additional information needed to prove eligibility will be provided.

Reporting a Change in Circumstances

3. Every applicant or recipient is obligated to immediately advise departmental officials of any change(s) in their family or domestic relationships, or in the number and circumstances of their dependent children.

Recognized Dependants

Dependent Child

4. An individual must satisfy the definition of “child” contained in the *WVA Act* to be recognized.
5. An additional amount of Allowance can be paid on behalf of a dependent child regardless of the child's place of residence, because the parents may still be incurring expenses for the child's support.
6. Where it appears evident there is the parental intention to support the child, the actual proof of such support is not normally a requirement.
7. A couple's separation does not negate the responsibility for child maintenance. The additional Allowance is to be paid to the parent with custody.

8. A child who marries or acquires a common-law partner may continue to be recognized as a dependent child so long as he or she remains financially dependent upon the recipient. A statement from the recipient indicating that financial support is in place (e.g., for a student attending university) will normally suffice.
9. Where the veteran or survivor is unmarried, widowed, not residing with or maintaining a spouse, or is no longer residing in a common-law relationship, the child may still be recognized as a dependent child. If so, a married or common-law equivalent relationship is deemed to exist and the veteran may be paid at the rate for a couple.
10. In the month that a child becomes eligible, or ceases to be eligible, the additional Allowance payable on behalf of the dependent child is to be paid for the entire month.

Orphans

11. An individual must satisfy the definition of "orphan" contained in the *WVA Act* to be recognized.
12. The eligibility of an orphan is derived from the Veteran or civilian's war service eligibility. Evidence of the Veteran or civilian's qualifying war service and the orphan's date of birth must be submitted. Also required:
    a. the death certificate of the parents; or,
    b. the death certificate of one parent, and proof that the surviving parent has abandoned or deserted the child.
13. Domestic status is not a factor to be considered in determining eligibility for an orphan.
14. The recognized survivor of a Veteran or civilian who chooses to marry or enter into a common-law relationship is no longer recognized as a survivor for WVA purposes. A dependent child affected by the survivor's change in domestic status may be recognized as an orphan, if it is established that the child has ceased to be dependent on the survivor and has become responsible for his/her own maintenance.
15. An orphan who is legally adopted by another person, is no longer recognized as an orphan.
16. The WVA payment to an orphan terminates when the person ceases to satisfy the definition of an orphan contained in the *WVA Act*. In the month that an orphan becomes eligible, or ceases to be eligible, the Allowance payable to the orphan is to be paid for the entire month.

Dependent Children and Orphans - Incapacity

17. An orphan, or a dependent child, may be recognized for WVA purposes while incapacitated (i.e., physically or mentally unable to earn a living), if the orphan or dependent child meets the criteria set out in the *WVA Act*.
18. Physical or mental illness or disability of a temporary nature (i.e. several weeks) cannot be recognized.
19. Payment of the additional amount for a dependent child shall be suspended where the child is wholly maintained at the expense of a provincial or municipal government, or by a federal government department other than Veterans Affairs Canada.
20. Examples of where a child is considered to be wholly maintained and the additional amount may not be continued are:

    a. the child's guardianship is transferred to a Provincial Director of Child Welfare (Children's Aid Society, Provincial Department of Social Services); or,
    b. the child is placed in a facility for health reasons or a detention centre, and the parents provide no financial support.
21. Examples of where the additional amount of Allowance for a dependent child may be continued if the child is in a facility:

a. the parents provide a comfort or clothing allowance;
b. the parents are involved with the treatment program, and their interaction with the child is required; or,
1. the parents bring the child home for holidays, weekends, or summer vacation.

22. Each case must be reviewed on an individual basis to ensure the parents are incurring expenses in support of the child's care.

Dependent Children and Orphans - Course of Instruction

23. The general purpose of a WVA payment to dependent children or orphans, who qualify based upon attendance at a course of instruction, is to provide financial assistance while they are improving their education and preparing for entry into the workforce.
24. A course of instruction is study taken through attendance at an educational institution, or by correspondence, under appropriate supervision. This permits development of skills that allow for further educational courses, or upgrading of existing occupational qualifications. The pursuit of education or training must be shown to be the main consideration.
25. Dependent children, or orphans, are assumed to be making satisfactory progress if they are developing skills as listed above.
26. A school year commences on the first day of September in any given year and terminates on the last day of August in the following year, where a course of instruction follows a conventional academic year (i.e., September/October to May/June).
27. Where a course of instruction does not follow the traditional academic year pattern (e.g. some vocational or technical institute courses may be 3 or 4 months duration), WVA may be paid while the dependent child, or orphan, is in attendance up to the end of the month in which the course terminates.
28. In the case of university courses that operate under the semester system, the WVA payment shall be continued for the full year provided that the person completes more than one semester in a twelve-month period.
29. Courses of instruction considered recreational or related to a hobby are not recognized for WVA purposes, as they are not related to a career or job education process.

Veteran Couples

30. Where both parties to a marriage or common-law relationship are Veterans residing together, each is eligible to receive WVA at the rate for a single recipient.
31. When determining the amount of WVA payable, each Veteran's individual income is assessed. If it is determined that each Veteran qualifies for a WVA payment based only on their own income, then each Veteran may be paid that amount, even if one Veteran receives a greater amount of Allowance than the other. However, if it is established that one Veteran is ineligible due to excess income, then one half of their combined assessable incomes may be assessed against each Veteran, and each Veteran will receive an equal amount of Allowance.
32. Either Veteran, but not both, is entitled to receive an additional WVA payment for a dependent child (children). The dependent child allowance shall be allotted to the Veteran who is determined to benefit the most.

Spouse or Common-Law Partner Basic Recognition

33. An applicant must advise of their family or domestic relationships when completing an application for WVA.
    a. If the individual is married, a statement to this effect will be acceptable. However, if exceptional circumstances are present, it may be necessary to seek other substantiating information such as a copy of the marriage certificate.
    b. If the client has entered into a common-law relationship, a declaration to this effect, including the date the relationship began, will be acceptable. However, if exceptional circumstances are present, it may be necessary to seek other substantiating information, including statutory declarations.
34. A Veteran or civilian must be living in a conjugal relationship with a common-law partner for a continuous period of at least twelve months before recognition of the common-law relationship can occur for WVA purposes. Pending confirmation that a recognized common-law relationship exists, the Veteran shall be recognized as a single recipient, unless there is a recognized dependent child involved. In this situation, the Veteran may be recognized as married equivalent and be eligible for WVA at the rate paid for a couple.
35. A spouse or common-law partner ceases to be recognized, if either party in the relationship acquires a new common-law partner or spouse, or the individuals voluntarily live separate and apart for a period greater than three months. If the partners reconcile within a period of less than three months then no change shall be made to the family status.
36. If separation extends for a period greater than three months, it will be necessary for the partners to re-establish the common-law relationship (live together in a conjugal relationship for one year) before the "common-law partner" may be recognized again.
37. A spouse or common-law partner must be residing with, maintaining or being maintained by the Veteran or civilian in order to be recognized as a survivor.
38. Where a WVA applicant or recipient is married, or recognized as living in a common-law relationship for *Old Age Security Act* or *Pension Act* purposes, the person shall be considered to have the same status for WVA purposes.
39. Only one person, at a given time, can be recognized as an applicant's or recipient's spouse, or common-law partner, for payment of the rate for a couple.

Involuntary Separation

40. When a WVA recipient and their spouse, or common-law partner, are considered involuntarily separated, their WVA entitlement may be set at an amount equal to double the single rate, effective the first day of the month the separation occurs.
41. In some instances, the WVA payment may be further split to take specific circumstances into account, such as the recipient's request, the cost of facility care, or the need to care for a dependent child.
42. A recipient and spouse, or common-law partner, are eligible to be paid double the single rate when either partner, or both, are placed in a facility for health reasons. Such circumstances could include:

    a. one partner who has a physical and/or mental frailty; a congenital handicap; a disability due to previous illness or injury; and is forced to reside away from the other partner in an adult residential care, intermediate care, or chronic care facility; and,
    b. in some provinces the type of care as referenced in (a) is not covered by provincial health insurance plans, and seriously-ill patients may be kept in hospitals and released for a stay at home for short periods to avoid placement in a facility, where significant costs would occur.
43. A WVA applicant or recipient and spouse, or common-law partner, are also eligible for consideration of double the single rate if:

a. they are living in separate dwellings for care (e.g. living with separate family members) due to circumstances beyond their control;
b. they are both living in the same community care facility, and each pay the same single rate as other persons living in that facility; or
c. physical or mental abuse exists, such as where the abuse forces one of the individuals into a facility.

44. Where the applicant or recipient and spouse, or common-law partner, are receiving two Guaranteed Income Supplement payments at the single rate, the reasons must be clarified. Caution is advised as Old Age Security policy permits two single rate payments based on either involuntary separation, or simply because of a breakdown in the relationship, if the separation extends beyond six months. Such reasons are not grounds for awarding double the single rate for the WVA program.
45. If an applicant or recipient and their spouse, or common-law partner, are granted double the single rate and subsequently, resume living together, the account must be re-adjusted to the rate for a couple, effective the first of the month following this occurrence.
46. When the partners indicate they can no longer live together because of personal reasons the circumstances must be examined. This situation does not constitute a basis to provide double the single rate. In these situations, the couple would usually legally separate.
47. Individuals in hospitals undergoing acute care do not qualify if the illness or injury is of a very short duration. However, this would not preclude cases where the admission to acute care is due to the unavailability of appropriate long-term care.
48. When determining if a special award should be granted, it should be considered if the partners chose to live separate and apart voluntarily prior to the recipient’s death. If so, a special award would not be payable.

Recent Marriage or Common-Law Relationship

49. The WVA, including a special award, cannot be awarded to the surviving spouse if the Veteran or civilian dies within one year after marrying, unless it is established that the Veteran or civilian was, at the time of marriage, in such a condition of health as to indicate a life expectancy of at least one year.
50. The legislation permits an exception to this situation where the circumstances surrounding the marriage, and subsequent death, of the Veteran or civilian are of such a special nature as to merit the payment of a special award and, thereafter, an ongoing WVA entitlement.
51. A WVA payment, including a special award, cannot be awarded to a person claiming to be the surviving common-law partner if the Veteran or civilian dies within one year after entering into this relationship. This is because the common-law relationship is not formally recognized given that a twelve month co-habitation period has not elapsed.

Separation

52. Where a recipient who had been awarded the rate for a couple, is no longer residing with, maintaining or being maintained by, a spouse or common-law partner, efforts should be made to determine the cause of separation, and whether it was effected legally or by mutual agreement. If no extenuating circumstances are present (such as involuntary separation), the WVA entitlement shall be reduced to the single rate. In this instance a copy of any relevant documentation should be obtained, as this information might prove useful, if a later ruling is required regarding survivor entitlement.
53. A recipient may request that WVA be granted at the single rate in an attempt to avoid the assessment of the spouse, or the common-law partner's income. In such cases it will be helpful to obtain a copy of a separation agreement, if such exists. Depending on the circumstances, it may be necessary to further examine whether the individuals have begun to have their relationship dissolved in a similar way for other

purposes, such as for *Old Age Security Act* benefits.

54. A recipient residing in the same house as his/her spouse or common-law partner can be classed as single, if the couple is not residing together as husband and wife. These cases are to be referred to the Policy Directorate for advice.
55. Given that breakdowns in a common-law relationship don't involve separation agreements, if the couple voluntarily separate the relationship shall be considered to have ended immediately. However, in the event there is a subsequent reconciliation, if the separation was for a period of less than three months, the 12 month co-habitation period will not be considered as interrupted.

Common-Law Partner - Unique Situations

56. A WVA payment can be made to only one common-law partner of the same Veteran or civilian, as the legislation does not authorize more than one such payment at any one time.
57. In order for the common-law partner to be recognized that person must have been residing with, maintaining or being maintained by the Veteran or civilian at the time of death to be recognized as a surviving common-law partner.
58. If this criteria cited in paragraph 73 are not met, and the information indicates there were reasons such as physical or mental abuse involved and prior to the veteran's death indications are that there was an intent on the parties to resume cohabitation, discretion is possible to allow for a WVA payment to be awarded.
59. A person claiming survivor's benefits as a common-law partner must establish that there was a conjugal relationship lasting for a period of not less than one year immediately prior to the Veteran or civilian's death before being recognized.
60. In situations where two applicants (i.e, an estranged spouse and a subsequent common-law partner) seek to be recognized for WVA purposes, the common-law partner shall, if all the requirements are satisfied, be so recognized.
61. Where a surviving common-law partner applies after a WVA payment on behalf of a legally married spouse has been awarded, the legally married spouse's entitlement to the WVA must be discontinued. However, should the surviving common-law partner marry, or enter into a subsequent common-law relationship, become "income in excess", or die, the legally married spouse can re-apply for recognition as the survivor.
62. Where a surviving common-law partner enters into a different common-law relationship, the WVA payment must be terminated.
63. The legislation makes no provision for the recognition of a subsequent spouse, or common-law partner, of the non-veteran survivor.

Divorce or Ceasing to Cohabit

64. When the Veteran or civilian and their spouse obtain a divorce, the spouse ceases to be eligible for any WVA, as the legislation provides no basis for continuing an ongoing payment in this situation.
65. When the Veteran or civilian and their common-law partner cease to reside together, entitlement to any WVA in respect of the common-law partner must be terminated.

Marriage, Remarriage, or Subsequent Common-Law Relationship

66. The eligibility of a survivor's benefit ceases upon marriage or remarriage. However, if the marriage or remarriage later proves to be invalid, or terminates due to marital breakdown or death, the WVA can be reinstated.

67. The eligibility of a survivor's benefit also cease when the person acquires a new common-law partner. This will be established after a twelve month co-habitation period has elapsed. However, if the new common-law partnership terminates due to death or breakdown of the relationship, the WVA can be reinstated.
68. Breakdown of the subsequent marriage, or common-law relationship is considered to have occurred in the following instances:

    a. desertion according to provincial law; or
    b. the persons are living separate and apart and a written separation agreement exists; or
    c. the common-law partners are living separate and apart (normally a period of three months should elapse to allow time for immediate reconciliation).
69. A spouse shall be deemed to be divorced from a subsequent marriage when divorce proceedings have commenced, a Decree Nisi has been issued, and it appears that a Decree Absolute will be granted.
70. In some provinces the terms "Decree Nisi" or "Decree Absolute" may no longer be used and instead an "Order of Divorce" or like statement will be used. The important consideration is that the divorce is considered final, once a favorable judgment is rendered by the courts.
71. Proof of the dissolution of a marriage exists, when the marriage has been annulled by a court order.

Survivors

72. For special award purposes, when one party to the marriage or common-law relationship dies, the WVA can be continued on behalf of the survivor at the rate for a couple for a period of twelve months.
73. The expressions "residing with, maintaining or being maintained" include situations where:

    a. a Veteran or civilian and their spouse, or a common-law partner, are deemed involuntarily separated;
    b. a Veteran or civilian has signified an intention to support a spouse or common-law partner, but they are not residing together because of special circumstances (e.g., one partner temporarily relocates to attend to personal matters); and,
    c. the Veteran or civilian and their spouse, or common-law partner, are living in separate locations, but the Veteran or civilian is still providing maintenance. This could also involve a situation where one partner is living outside the country for health reasons, so long as there are indications the couple will be re-uniting.
74. Paragraph (c) above does not apply in the case of a "deferred" Allied Veteran, where the legislation (i.e., subsection 6.2(4) of the *War Veterans Allowance Act*) specifies that the dependants must be residing with the Veteran in Canada to be recognized.

Blind

75. Whenever a veteran, the veteran's spouse or common-law partner, or the veteran's survivor establishes that they are blind, an additional rate of WVA benefits can be paid.
76. A person is considered to be blind if the visual acuity in both eyes with proper refractive lenses is 20 / 200 (6 / 60) or less with Snellen Chart or equivalent, or if the greatest diameter of the field of vision in both eyes is less than 20 degrees. The diameter of the field of vision is to be determined by the use of:

    a. a tangent screen at a distance of 1 metre using a 10 millimetre while moving a white test object; or
    b. a perimeter at a distance of 1/3 of a metre using a 3 millimetre while moving a white test object.

77. Acceptable evidence of a person’s blindness in accordance with the preceding would be:

    a. a "Registered Blind" status with the Canadian National Institute for the Blind. This would be evident by the fact that the person has a CNIB registered number.
    b. a Disability Tax Certificate or deduction approved by Canada Revenue Agency seeking eligibility for the Disability (Non-Refundable) Tax Credit. Where approval is granted to the person claiming the deduction for Income Tax purposes, they are so advised on their Income Tax Assessment/ Re-assessment Return form. In this situation, it is reasonable for VAC to obtain a copy of the information that the Canada Revenue Agency used in this respect.
    c. a certificate of disability for blindness issued by an authorized Medical Doctor or Optometrist operating under an Act of Parliament or under a Provincial Act. An example of where this would occur relates to when a person has submitted a document to qualify for CPP/QPP disability and a favourable decision on an Entitlement Grant is issued.

References

War Veterans Allowance Act

Civilian War-related Benefits Act

Old Age Security Act

Pension Act

Veterans Allowance Regulations