Veterans Affairs Canada | Anciens Combattants Canada

Disability Benefits in Respect of Death for Survivors and Dependent Children

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Table of Contents

Purpose
Policy
General
Disability Pension
Pain and Suffering Compensation
Death Benefit
Division of a PSC/Death Benefit Amongst Beneficiaries
Critical Injury Benefit
References

Purpose

To provide direction respecting entitlement of survivors and dependent children to a death and/or disability benefit following the death of a member or Veteran from a service related injury or disease.

Policy

General

1. If the member or Veteran died prior to the implementation of the *Veterans Well-being Act* (VWA) (April 1, 2006), any claims related to the member's or Veteran's disability or death must be pursued under the *Pension Act*.
2. Only a survivor and/or dependent child may apply for a death or disability benefit in respect of a member's or Veteran's death.
3. A survivor and/or dependent child may receive a survivor pension under the *Pension Act* and/or a Pain and Suffering Compensation (PSC) under the *Veterans Well-being Act* up to a maximum percentage of 100% or a Death Benefit.
4. The maximum percentage of disability benefits payable to a survivor and/or dependent child is 100% less any disability pension, disability award (DA) and/or PSC previously paid to the member or Veteran.
5. In cases where a disability benefit is not provided in respect of the death of the member or Veteran, a survivor and/or dependent child may apply for;
    a. a disability benefit with respect to a new condition for which the member or Veteran did not apply prior to his/her death; and/or

    b. an additional/increased disability benefit in respect of an entitled condition if they have evidence that the member's or Veteran's condition deteriorated between the last time he/she was assessed and the time of death.
6. In cases where the survivor or dependent child is also a member or Veteran, the survivor/dependent child may receive:
    a. a disability pension and/or a PSC with respect to his/her own disability (up to a total maximum percentage of 100%);
    b. a pension and/or a PSC with respect to the death or disability of the deceased member or Veteran (up to a total maximum percentage of 100%); and/or
    c. a death benefit with respect to the death of the deceased member.
7. Estates are not eligible to apply for a death or disability benefit.

Disability Pension

8. A disability pension for death is payable when a member or Veteran dies as a result of a service-related injury or disease, or a non-service related injury or disease which was aggravated by service.
9. When a member or Veteran dies as a result of an injury or disease for which a disability pension under the *Pension Act* is being paid, the member or Veteran is deemed to have been assessed at 100% for that disability.
10. Full entitlement is granted for death related to a partially entitled condition.

Pain and Suffering Compensation

11. For information on PSC for survivors and dependent children, see the Pain and Suffering Compensation Policy.

Death Benefit

12. Under the *Veterans Well-being Act*, a death benefit is payable when a member dies as a result of a service-related injury or disease, or a non-service related injury or disease aggravated by service, and the death occurs within 30 days of the injury occurring or the disease being contracted, or the injury or disease being aggravated by service.
13. A death benefit is paid over and above any disability benefits (e.g. disability pension, DA, PSC) paid or payable under the *Pension Act* and/or *Veterans Well-being Act*.
14. If a death benefit is paid in respect of a member's death, a PSC will not be paid for the same condition for which a death benefit has been paid.
15. A death benefit is not payable in cases where a member has died prior to April 1, 2006, or dies of a condition for which a disability pension was paid or is payable under the *Pension Act*.
16. A survivor and/or dependent child may receive a death benefit in respect of the death of more than one member.

Division of a PSC/Death Benefit Amongst Beneficiaries

17. Cases where a survivor or dependent child come forward after the payment of a PSC or death benefit has been disbursed will be dealt with on a case-by-case basis. The issue of liability would be dependent on the facts of each case and the reason the beneficiary was missed.
18. In relation to an unborn child of a deceased member or Veteran a PSC or death benefit may be paid to such a child who is subsequently born alive. An unborn child who is subsequently born alive is deemed to

have been a dependent child at the time of the member's or Veteran's death.

19. The PSC or death benefit payable will be divided taking into consideration the unborn child. If the child is not subsequently born alive, the child's share will be divided amongst the other beneficiaries, as per section 56.1 and 59 of the *Veterans Well-being Act*.

Critical Injury Benefit

20. Survivors and surviving dependent children are not eligible to apply for and/or be paid the Critical Injury benefit of behalf of a deceased member or Veteran.

References

Pension Act, paragraphs 21(1)(b), 21(2)(b)

Veterans Well-being Act, sections 49, 50, 53, 54, 55, 56, 57, and 59

Consequential Disability

Pain and Suffering Compensation Policy

Disability Benefits in Respect of Peacetime Military Service – The Compensation Principle

Disability Benefits in Respect of Wartime and Special Duty Service – The Insurance Principle

Disability Resulting From a Non-Service Related Injury or Disease

Payments: A Person Dies Before Recieving Payment