

## Department of Veterans Affairs

## § 3.1601

for determining entitlement to the plot or interment allowance notwithstanding that the Department of Veterans Affairs has determined, in connection with a claim for monetary benefits, that the disability was not incurred in line of duty); and

(4) The veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States; and

(5) The applicable further provisions of this section and §§ 3.1601 through 3.1610.

(Authority: 38 U.S.C. 2303(b))

(g) *Transportation expenses for burial in national cemetery.* Where a veteran dies as the result of a service-connected disability, or at the time of death was in receipt of disability compensation (or but for the receipt of military retired pay or nonservice-connected disability pension would have been entitled to disability compensation at time of death), there is payable, in addition to the burial allowance (either the amount specified in 38 U.S.C. 2302 or the amount specified in 38 U.S.C. 2307 if the cause of death was service connected), an additional amount for payment of the cost of transporting the body to the national cemetery for burial. This amount may not exceed the cost of transporting the body from the veteran's place of death to the national cemetery nearest the veteran's last place of residence in which burial space is available. The amounts payable under this paragraph are subject to the limitations set forth in §§ 3.1604 and 3.1606.

CROSS REFERENCES: Definitions; veterans See § 3.1(d). Protection; burial allowance. See § 3.954.

[26 FR 1620, Feb. 24, 1961, as amended at 44 FR 22721, Apr. 17, 1979; 47 FR 11012, Mar. 15, 1982; 48 FR 41162, Sept. 14, 1983; 52 FR 34909, Sept. 16, 1987; 56 FR 25045, June 3, 1991; 60 FR 18356, Apr. 11, 1995; 62 FR 35423, July 1, 1997]

### § 3.1601 Claims and evidence.

(a) *Claims.* Claims for reimbursement or direct payment of burial and funeral expenses under § 3.1600(b) and plot or interment allowance under § 3.1600(f) must be received by VA within 2 years after the permanent burial or cremation of the body. Where the burial al-

lowance was not payable at the death of the veteran because of the nature of his (or her) discharge from service, but after his (or her) death the discharge has been corrected by competent authority so as to reflect a discharge under conditions other than dishonorable, claim may be filed within 2 years from date of correction of the discharge. This time limit does not apply to claims for service-connected burial allowance under § 3.1600(a) or for the cost of transporting a veteran's body to the place of burial under § 3.1600(c) or § 3.1600(g).

(Authority: 38 U.S.C. 904)

(1) Claims for burial allowance may be executed by:

(i) The funeral director, if entire bill or any balance is unpaid (if unpaid bill or the unpaid balance is less than the applicable statutory burial allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The individual whose personal funds were used to pay burial, funeral, and transportation expenses; or

(iii) The executor or administrator of the estate of the veteran or the estate of the person who paid the expenses of the veteran's burial or provided such services. If no executor or administrator has been appointed then by some person acting for such estate who will make distribution of the burial allowance to the person or persons entitled under the laws governing the distribution of interstate estates in the State of the decedent's personal domicile.

(2) Claims for the plot or interment allowance (except for claims filed by a State or an agency or political subdivision thereof, under § 3.1604(d)) may be executed by:

(i) The funeral director, if he or she provided the plot or interment services, or advanced funds to pay for them, and if the entire bill for such or any balance thereof is unpaid (if the unpaid bill or the unpaid balance is less than the statutory plot or interment allowance, only the unpaid amount may be claimed by the funeral director); or

(ii) The person(s) whose personal funds were used to defray the cost of the plot or interment expenses; or

### § 3.1602

### 38 CFR Ch. I (7-1-04 Edition)

(iii) The person or entity from whom the plot was purchased or who provided interment services if the bill for such is unpaid in whole or in part. An unpaid bill for a plot will take precedence in payment of the plot or interment allowance over an unpaid bill for other interment expenses or a claim for reimbursement for such expenses. Any remaining balance of the plot or interment allowance may then be applied to interment expenses; or

(iv) The executor or administrator of the estate of the veteran or the estate of the person who bore the expense of the plot or interment expenses. If no executor or administrator has been appointed, claim for the plot or interment allowance may be filed as provided in paragraph (a)(1)(iii) of this section for the burial allowance.

(3) For the purposes of the plot and interment allowance *plot* or *burial plot* means the final disposal site of the remains, whether it is a grave, mausoleum vault, columbarium niche, or other similar place. Interment expenses are those costs associated with the final disposition of the remains and are not confined to the acts done within the burial grounds but may include the removal of bodies for burial or interment.

(b) *Supporting evidence.* Evidence required to complete a claim for the burial allowance and the plot or interment allowance, when payable, (including a reopened claim filed within the 2-year period) must be submitted within 1 year from date of the Department of Veterans Affairs request for such evidence. In addition to the proper claim form the claimant (other than a § 3.1604(d) claimant) is required to submit:

(1) *Statement of account.* Preferably on funeral director's or cemetery owner's billhead showing name of the deceased veteran, the plot or interment costs, and the nature and cost of services rendered, and unpaid balance.

(2) *Receipted bills.* Must show by whom payment was made and show receipt by a person acting for the funeral director or cemetery owner.

(3) *Proof of death.* In accordance with § 3.211.

(4) *Waivers from all other distributees.* Where expenses of a veteran's burial,

funeral, plot, interment and transportation were paid from funds of the veteran's estate or some other deceased person's estate and the identity and right of all persons to share in that estate have been established, payment may be made to one heir upon unconditional written consent of all other heirs.

(5) *Entitlement under § 3.1600(b)(3).* In addition to the other evidentiary requirements of this subparagraph, there must be written certification over the signature of a responsible official of the State (or political subdivision of the State) where the body was held that—

(i) There is no next of kin or other person claiming the body of the deceased veteran, and

(ii) There are not available sufficient resources in the veteran's estate to cover burial and funeral expenses.

(Authority: 38 U.S.C. 2302(a))

[38 FR 30106, Nov. 1, 1973, as amended at 41 FR 38771, Sept. 13, 1976; 44 FR 58710, Oct. 11, 1979; 48 FR 41162, Sept. 14, 1983; 52 FR 34909, Sept. 16, 1987; 55 FR 50323, Dec. 6, 1990]

#### § 3.1602 Special conditions governing payments.

(a) *Two or more persons expended funds.* If two or more persons have paid from their personal funds toward the burial, funeral, plot, interment and transportation expenses, the burial and plot or interment allowance will be divided among such persons in accordance with the proportionate share paid by each, unless waiver is executed in favor of one of such persons by the other person or persons involved. The person in whose favor payment is waived will not be allowed a sum greater than that which was paid by such person. (See § 3.1601(a)(3).)

(b) *Person who performed services.* A person who performed burial, funeral, and transportation services or furnished the burial plot will have priority over claims of persons whose personal funds were expended.

(c) *Partial payment.* Where partial payment of the expenses of the burial, funeral and transportation of the body are made from funds of the veteran's estate and the balance from the personal funds of another person, the claim of the other person has priority.