

Department of Veterans Affairs

§ 3.852

listed in paragraph (b)(2) of this section.

(Authority: 38 U.S.C. 501)

[68 FR 50970, Aug. 25, 2003]

INCOMPETENTS, GUARDIANSHIP AND INSTITUTIONAL AWARDS

§ 3.850 General.

(a) Payment of benefits to a duly recognized fiduciary may be made on behalf of a person who is mentally incompetent or who is a minor; or, payment may be made directly to the beneficiary or to a relative or other person for the use of the beneficiary, regardless of legal disability, when it is determined to be in the best interest of the beneficiary by the Veterans Service Center Manager.

(Authority: 38 U.S.C. 5502)

(1) Unless otherwise contraindicated by evidence of record payment will be made direct to the following classes of minors without any referral to the Veterans Service Center Manager:

(i) Those who are serving in or have been discharged from the military forces of the United States; and

(ii) Those who qualify for survivors benefits as a surviving spouse.

(2) Unless otherwise contraindicated by evidence of record, immediate payment of benefits may be made to the spouse of an incompetent veteran having no guardian for the use of the veteran and his or her dependents prior to referral to the Veterans Service Center Manager. (Sec. 13.57 of this chapter.)

(b) When payments have been discontinued or withheld from a fiduciary, benefits may be temporarily paid to the person having custody of the minor or incompetent.

(c) Where a child is in the custody of a natural, adoptive or stepparent, benefits payable on behalf of such child may be paid to the parent as custodian of the child.

(d) Benefits due a minor or incompetent adult Indian who is a recognized ward of the Government, for whom no fiduciary has been appointed, may be paid to the proper officer of the Indian Service designated by the Secretary of

the Interior to receive funds for said person.

[26 FR 1606, Feb. 24, 1961, as amended at 27 FR 5431, June 8, 1962; 38 FR 29076, Oct. 19, 1973; 39 FR 34532, Sept. 26, 1974; 40 FR 36329, Aug. 20, 1975; 41 FR 12656, Mar. 26, 1976; 45 FR 27436, Apr. 23, 1980; 67 FR 46868, July 17, 2002]

§ 3.851 St. Elizabeths Hospital, Washington, DC.

Benefits due or becoming due any person who is a patient at St. Elizabeths Hospital will be paid to a duly appointed fiduciary of such person. The benefits payable to a veteran who has no spouse, child, or dependent parent will be paid by an institutional award in accordance with § 3.852 if there is no such fiduciary. Benefits payable to veterans' dependents who are patients at this hospital will be paid direct or to a fiduciary of such dependent, except that any awards now being paid to the superintendent will be continued while such dependent remains a patient.

[39 FR 34532, Sept. 26, 1974, as amended at 45 FR 27436, Apr. 23, 1980]

§ 3.852 Institutional awards.

(a) When an incompetent veteran entitled to pension, compensation or retirement pay is a patient in a hospital or other institution, payments on his (or her) account may be made to the chief officer of a Department of Veterans Affairs or non-Department of Veterans Affairs institution:

(1) When no fiduciary has been appointed or when payments to an unsatisfactory fiduciary have been discontinued;

(2) When the Veterans Service Center Manager certifies that a fiduciary is not furnishing the chief officer funds required for the veteran's comforts and desires not otherwise provided by the institution.

(Authority: 38 U.S.C. 501(a); 5307; 5502)

(b) In an institutional award of pension, compensation or retirement pay there may be paid to the chief officer of a non-Department of Veterans Affairs institution on behalf of the veteran an amount not in excess of \$60 per month. An institutional award of disability pension will not exceed \$25 per