

§716.7

possible date. The Veterans' Administration is promptly notified of all deaths of this category reported, and upon the request of that agency all pertinent data is forwarded.

§716.7 Payment of the death gratuity.

(a) *Claim certification and voucher for the death gratuity payment.* The Comptroller General of the United States has approved DD Form 397 as the form to be used hereafter for claim certification and voucher for the death gratuity payment.

(b) *Active duty deaths (Navy).* To effect immediate payment of death gratuity the following actions will be taken:

(1) The commanding officer will ascertain that the deceased member died while on active duty, active duty for training, or inactive-duty training, and will obtain the name, relationship, and address of the eligible survivor from the Service Record of the deceased. The Dependency Application/Record of Emergency Data (NAVPERS 1070/602) or Record of Emergency Data (DD Form 93), will normally contain this information. In addition, in the case of enlisted personnel, the Application for Dependents Allowance (BAQ [Basic Allowance for Quarters]), NAVPERS Form 668, may serve as a source of corroboration. He will, with the cooperation of the disbursing officer, initiate preparation of a Claim Certification and Voucher for Death Gratuity Payment, DD Form 397, in original and five copies, completing blocks 5 through 14 inclusive, and the administrative statement in block 18. The administrative statement in block 18 will be signed by the commanding officer or acting commanding officer.

(2) The disbursing officer will, upon receipt of the DD Form 397, draw a check to the order of the eligible survivor named in block 5, complete blocks 2, 3, 4, and the check payment data portion of block 18.

(3) Under arrangements made by the commanding officer, the check and the original and one copy of the voucher, DD Form 397, will be delivered to the payee. The payee will be required to complete block 15, sign in block 17a, and have two witnesses complete block 17 on the original voucher at the time

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the check is delivered. Under no circumstances will the check be delivered to the payee until this action has been accomplished. The payee will retain the copy of the voucher, DD Form 397, and the signed original voucher will be returned by hand to the disbursing officer by the person designated to deliver the check.

[24 FR 7523, Sept. 18, 1959, as amended at 44 FR 25647, May 2, 1979]

§716.8 Payments excluded.

(a) No payment shall be made if the deceased member suffered death as a result of lawful punishment for a crime or for a military or naval offense, except when death was so inflicted by any hostile force with which the Armed Forces of the United States have engaged in armed conflict.

(b) No payment will be made to a survivor implicated in the homicide of the deceased in the absence of evidence clearly absolving such survivor of any felonious intent.

(c) Unless the laws of the place where a minor beneficiary resides provide that such a payment would grant a valid acquittance of the Government's obligation to make a payment of death gratuity to or for a minor, a death gratuity of more than \$1,000 may not be paid in whole or in part to a parent as natural guardian of a minor or to any other person who is not a legal guardian appointed by the civil court to manage the minor's financial affairs.

[24 FR 7523, Sept. 18, 1959, as amended at 37 FR 6471, Mar. 30, 1972; 44 FR 25647, May 2, 1979]

§716.9 Erroneous payment.

Where through administrative mistake of fact or law, payment of the death gratuity is made to a person clearly not entitled thereto, and it is equally clear that another person is entitled to the death gratuity, the Chief of Naval Personnel (Pers-732) or the Commandant of the Marine Corps (Code MSPA-1), as appropriate, will certify payment to the proper payee, irrespective of recovery of the erroneous payment. On the other hand, where a payment of the death gratuity has been made to an individual on the basis of representations of record made

by the deceased member as to his marital and dependency status, and the Government otherwise has no information which would give rise to doubt that such status is as represented, the payment is not to be regarded as "erroneous." The Government has a good acquittance in such cases even though it may subsequently develop that the payee is not the proper statutory payee of the gratuity and no second payment is authorized.

[24 FR 7523, Sept. 18, 1959, as amended at 44 FR 25647, May 2, 1979]

Subpart B—Provisions Applicable to the Navy

§716.10 Procedures.

(a) *Action by commanding officers.* See §716.7(b)—(1) *Immediate payment—Eligible beneficiary residing with deceased member.* Commanding officers, in order to expedite the payment of the death gratuity, will, upon official notification of death, ascertain the duty status of the deceased, and determine the eligibility of the spouse or designated beneficiary who was residing with the deceased member on or near his duty station at the time of his death. The services of a staff or district legal officer will be utilized as required. Every effort should be made to effect prompt payment (within 24 hours, if possible). It is the intent that determinations of entitlement by commands in the field will be confined largely to spouses and parents designated by the service member who were living with him at the time of his death.

(2) *Questionable cases.* If entitlement to the death gratuity payment is questionable after seeking advice of the staff or district legal officer, such case will be forwarded promptly to the Chief of Naval Personnel (Pers-732) with a brief statement relative to the facts which raised the issue of doubt. Every effort will be made to expedite action by a review of the official records of the decedent in the Bureau of Naval Personnel and the Family Allowance Activity at Cleveland, Ohio. Those cases wherein the service member was in a deserter status, absent without leave, or in the custody of civil authorities at the time of death, wherein

guardianship must be provided for the protection of the decedent's children, or wherein a technicality exists which makes immediate certification legally unsound, will be considered questionable.

(3) *Exception.* Where the entitlement of the survivor who is living with the deceased at the time of his death is questionable and such survivor is in dire financial circumstances, the Chief of Naval Personnel (Pers-G23) shall be requested by message to make an adjudication of entitlement. If it is determined that the survivor is entitled to the payment, the commanding officer will be authorized by message to execute DD Form 397.

(b) *Action by Casualty Assistance Calls Program (CACP) officers; Potential beneficiary not residing with member—(1) Widow(er).* The CACP officer, on his or her initial visit to a widow(er), determines, propriety permitting, whether there is an urgent need for financial assistance. If there is an urgent need for financial assistance, the CACP officer should obtain DD Form 397 from any military disbursing office and, on his or her second visit to the widow(er), have him or her sign it and obtain the signatures of two witnesses on the form. It should be noted that the following procedure is confined to cases in which the decedent's eligible survivor for the death gratuity is a widow(er), and efforts to effect immediate payment in accordance with the intent of the governing statute are appropriate. In such cases, the CACP officer, upon learning that a widow(er), not residing with his or her spouse at or near the spouse's duty station, is in urgent need of financial assistance, shall advise the Chief of Naval Personnel (Pers-732) of the need by message. The CACP officer shall send a copy of this message to the decedent's duty station, if known. Upon receipt, the disbursing officer will furnish the Navy Finance Center, Cleveland, Ohio 44199, with the decedent's basic monthly pay [plus any special (see §716.1), incentive, and proficiency pay] in the event the pay account has not been forwarded previously to that center sufficiently early to have reached there. The CACP officer shall also send a copy of his message to the Navy Finance Center