

§ 10.40

child is alleged, the following evidence will be required:

(1) Report of a licensed physician setting forth all of the facts as to the child's physical condition; and

(2) Affidavit of the child regarding his physical condition and the affidavits of two competent disinterested persons, who shall state that they personally know the claimant, that they have read his affidavit and that the same is true to the best of their knowledge and belief.

§ 10.40 Payment on account of minor child.

Payments to a minor child shall be made to the legally constituted guardian, curator or conservator, or to the person found by the director to be otherwise legally vested with the care of the child.

§ 10.41 Definition of "child".

The term *child* as used in the regulations in this part includes:

(a) A legitimate child;

(b) A child legally adopted;

(c) A stepchild if a member of the veteran's household at the time of the death of the veteran, or

(d) An illegitimate child but as to the father only if acknowledged in writing signed by him, or if he has been judicially ordered or decreed to contribute to such child's support or has been judicially decreed to be the putative father of such child.

§ 10.42 Claim of child other than legitimate child.

A claim of a child legally adopted by the veteran upon whose service the claim is based shall be supported by a certified copy of the court record of such adoption. A claim of a stepchild of a veteran shall be supported by an affidavit of his or her legal guardian, stating that at the time of the death of the veteran said stepchild was a member of the veteran's household. The fact, as stated in such affidavit, and the signature of the guardian thereto, shall be attested by the court having jurisdiction over the guardian, or by two competent persons to whom the child was personally known at the time of the death of the veteran. A claim of an illegitimate child of a veteran upon whose

38 CFR Ch. I (7-1-08 Edition)

service claim is based, shall be supported by:

(a) A statement by the veteran in writing acknowledging his parentage of such child; or

(b) Certified copy of order or decree of a court ordering the veteran to contribute to such child's support; or

(c) Certified copy of a decree of a court holding the veteran to be the putative father of such child.

§ 10.43 Claim by guardian of child of veteran.

A claim made by a legal guardian on behalf of his or her ward, a child of a veteran, shall be supported by an affidavit of said guardian, in the capacity of guardian, setting forth the names, ages, and addresses of all living children of the deceased veteran, or, if there be no living child other than the claimant child, statement of that fact shall be made. The signature of the guardian to such required affidavit shall be attested by the court having jurisdiction of the guardian and ward, or by two competent persons to whom the child is personally known.

§ 10.44 Evidence required to support claim of mother or father.

The term *mother* and *father* as referred to in the order of preference as outlined in section 601 of the Act, as amended, includes stepmothers, stepfathers, mothers and fathers through adoption, and persons who, for a period of not less than one year, have stood in the place of a mother or father to the veteran at any time prior to the beginning of his service. In addition to the evidence of dependency required from a natural mother or father, a claim of a stepmother or stepfather shall be supported by evidence of marriage to the natural parent of the veteran. This evidence shall be in accordance with the requirements of proof of marriage as set forth in regulations of the Department of Veterans Affairs. A claim of a mother or father through adoption shall be supported by a certified copy of the court record of such adoption. A claim by a person who claims to have stood in the place of a mother or father shall be supported by evidence of such