

(2) Where the veteran's death was due to service rendered with the Commonwealth Army of the Philippines while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, or was due to service in the Philippine Scouts under section 14, Pub. L. 190, 79th Congress.

(c) A claim for dependency and indemnity compensation on a form prescribed will be accepted as a claim for the special allowance where it is determined that this benefit is payable or where a specific inquiry concerning entitlement to the special allowance is received.

(d) Payment of this allowance will be authorized on the basis of a certification from the Social Security Administration. Award actions subsequent to the original award, including adjustment and discontinuance, will be made in accordance with new certifications from the Social Security Administration.

(e)(1) The special allowance will be payable only if the death occurred: (i) While on active duty, active duty for training, or inactive duty training as a member of a uniformed service (line of duty is not a factor); or

(ii) As the result of a disease or injury which was incurred or aggravated in line of duty while on active duty or active duty for training, or an injury which was incurred or aggravated in line of duty while on inactive duty training, as a member of a uniformed service after September 15, 1940, if the veteran was discharged or released from the period of such duty, under conditions other than dishonorable.

(2) Where the veteran died after separation from service: (i) Discharge from service must have been under conditions other than dishonorable as outlined in § 3.12.

(ii) Line of duty and service connection will be determined as outlined in § 3.1(k) and (m) and the § 3.300 series.

[26 FR 1605, Feb. 24, 1961]

§ 3.805 Loan guaranty for surviving spouses; certification.

A certification of loan guaranty benefits may be extended to surviving spouses based on an application filed on or after January 1, 1959, if:

(a) The veteran served in the Armed Forces of the United States (Allied Nations are not included) at any time on or after September 16, 1940; and

(b) The veteran died in service; or

(c) The veteran died after separation from service and such separation was under conditions other than dishonorable provided the veteran's death was the result of injury or disease incurred in or aggravated by service in line of duty rendered on or after September 16, 1940, regardless of the date of entrance into such service (cases where compensation is payable because of death resulting from hospitalization, treatment, examination, or training are not included); and

(d) The surviving spouse meets the requirements of the term "surviving spouse" as outlined in § 3.50; and

(e) The veteran's surviving spouse is unmarried; and

(f) The applicant is not an eligible veteran.

CROSS REFERENCES: Wife, widow or spouse. See § 3.50(b). Terminated marital relationships. See § 3.55.

[26 FR 1605, Feb. 24, 1961, as amended at 31 FR 4347, Mar. 12, 1966; 37 FR 24662, Nov. 18, 1972; 40 FR 54245, Nov. 21, 1975, 41 FR 49636, Nov. 10, 1976; 44 FR 22721, Apr. 17, 1979; 62 FR 5529, Feb. 6, 1997]

§ 3.806 Death gratuity; certification.

(a) Where a veteran dies on or after January 1, 1957, and during the 120-day period which begins on the day following the date of his or her discharge or release from active duty, active duty for training, or inactive training duty, the Department of Veterans Affairs will certify that fact to the Secretary concerned if the Department of Veterans Affairs determines on the basis of a claim filed with it that:

(1) Death resulted from:

(i) Disease or injury incurred or aggravated while on such active duty or active duty for training; or

(ii) Injury incurred or aggravated while on such inactive duty training; and

(2) The deceased person was discharged or released from such service under conditions other than dishonorable.