

§ 2303. Death in Department facility; plot allowance

(a)(1) When a veteran dies in a facility described in paragraph (2), the Secretary shall—

(A) pay the actual cost (not to exceed \$700 (as increased from time to time under subsection (c))) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Department; and

(B) when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

(2) A facility described in this paragraph is—

(A) a facility of the Department (as defined in section 1701(3) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title; or

(B) an institution at which the deceased veteran was, at the time of death, receiving—

(i) hospital care in accordance with section 1703 of this title;

(ii) nursing home care under section 1720 of this title; or

(iii) nursing home care for which payments are made under section 1741 of this title.

(b) In addition to the benefits provided for under section 2302 of this title and subsection (a) of this section, in the case of a veteran who is eligible for burial in a national cemetery under section 2402 of this title and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons who are (i) eligible for burial in a national cemetery, and (ii) members of a reserve component of the Armed Forces not otherwise eligible for such burial or former members of such a reserve component not otherwise eligible for such burial who are discharged or released from service under conditions other than dishonorable, and (B) is owned by a State or by an agency or political subdivision of a State, the Secretary shall pay to such State, agency, or political subdivision the sum of \$700 (as increased from time to time under subsection (c)) as a plot or interment allowance for such veteran; and

(2) if such veteran is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Secretary shall pay a sum not exceeding \$700 (as increased from time to time under subsection (c)) as a plot or interment allowance to such person as the Secretary prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, an agency or political subdivision of a State, or a former employer of the deceased

veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.

(c) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the maximum amount of burial and funeral expenses payable under subsection (a) and in the maximum amount of the plot or interment allowance payable under subsection (b), equal to the percentage by which—

(1) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(2) the Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170, §903; Pub. L. 86-70, §29(a), June 25, 1959, 73 Stat. 148; Pub. L. 86-624, §25(b), July 12, 1960, 74 Stat. 418; Pub. L. 87-99, July 21, 1961, 75 Stat. 218; Pub. L. 89-358, §4(i), Mar. 3, 1966, 80 Stat. 24; Pub. L. 93-43, §5(a)(1), June 18, 1973, 87 Stat. 80; Pub. L. 94-581, title II, §204, Oct. 21, 1976, 90 Stat. 2856; Pub. L. 95-476, title II, §202(a), Oct. 18, 1978, 92 Stat. 1503; Pub. L. 95-479, title III, §303(a), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 97-35, title XX, §2001(b), Aug. 13, 1981, 95 Stat. 781; Pub. L. 97-306, title IV, §404(a), Oct. 14, 1982, 96 Stat. 1443; Pub. L. 99-272, title XIX, §19012(c)(4), Apr. 7, 1986, 100 Stat. 382; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 101-508, title VIII, §8042(a), Nov. 5, 1990, 104 Stat. 1388-349; renumbered §2303 and amended Pub. L. 102-83, §§4(a)(3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 104-275, title II, §212, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-114, title IV, §401(a), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 106-419, title III, §333(a), Nov. 1, 2000, 114 Stat. 1856; Pub. L. 107-103, title V, §501(b)(1), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108-183, title V, §501(a), Dec. 16, 2003, 117 Stat. 2666; Pub. L. 111-275, title V, §501(a)-(c), Oct. 13, 2010, 124 Stat. 2881; Pub. L. 114-58, title VI, §601(13), Sept. 30, 2015, 129 Stat. 539.)

AMENDMENTS

2015—Subsec. (c). Pub. L. 114-58 substituted “interment” for “internment” in introductory provisions.

2010—Subsec. (a)(1)(A). Pub. L. 111-275, §501(a), substituted “\$700 (as increased from time to time under subsection (c))” for “\$300”.

Subsec. (b). Pub. L. 111-275, §501(b), substituted “\$700 (as increased from time to time under subsection (c))” for “\$300” in pars. (1) and (2).

Subsec. (c). Pub. L. 111-275, §501(c), added subsec. (c).

2003—Subsec. (b). Pub. L. 108-183, §501(a)(1), in introductory provisions, substituted “burial in a national cemetery under section 2402 of this title” for “a burial allowance under such section 2302, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war”.

Subsec. (b)(2). Pub. L. 108-183, §501(a)(2), substituted “is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran” for “(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)”.

2001—Subsec. (b)(1), (2). Pub. L. 107-103 substituted “\$300” for “\$150”.

2000—Subsec. (b)(1)(A). Pub. L. 106-419 amended cl. (A) generally. Prior to amendment, cl. (A) read as follows: “is used solely for the interment of persons eligible for burial in a national cemetery, and”.

1997—Subsec. (a)(2)(A). Pub. L. 105-114 substituted “a facility of the Department (as defined in section 1701(3) of this title)” for “a Department facility (as defined in section 1701(4) of this title)”.

1996—Subsec. (a). Pub. L. 104-275 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “When a veteran dies in a Department facility (as defined in section 1701(4) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title or in an institution at which the deceased veteran was receiving hospital care in accordance with section 1703 of this title or nursing home care under section 1720 of this title at the expense of the United States at the time of death, the Secretary—

“(1) shall pay the actual cost (not to exceed \$300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Department; and

“(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.”

1991—Pub. L. 102-83, §5(a), renumbered section 903 of this title as this section.

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration” in section catchline.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “1701(4)” for “601(4)”, “1710 or 1711(a)” for “610 or 611(a)”, “1703” for “603”, and “1720” for “620” in introductory provisions.

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration” in introductory provisions and in par. (1).

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “2302” for “902” in two places in introductory provisions.

1990—Subsec. (b)(2). Pub. L. 101-508 inserted “(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)” after “if such veteran”.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1986—Subsec. (a). Pub. L. 99-272 inserted “hospital care in accordance with section 603 of this title or”.

1982—Subsec. (a). Pub. L. 97-306 substituted “When a veteran dies in a Veterans’ Administration facility (as defined in section 601(4) of this title)” for “Where death occurs in a Veterans’ Administration facility” and inserted “or in an institution at which the deceased veteran was receiving nursing home care under section 620 of this title at the expense of the United States at the time of death” after “611(a) of this title.”

1981—Subsec. (b). Pub. L. 97-35 inserted provisions relating to a veteran discharged from active duty for a disability incurred or aggravated in the line of duty, or a war veteran.

1978—Subsec. (a)(1). Pub. L. 95-479 substituted “\$300” for “\$250”.

Subsec. (b). Pub. L. 95-476 substituted provisions requiring Administrator to pay an interment allowance of \$150 to a State or an agency or subdivision of a State, for burial of an eligible veteran in a cemetery, reserved for burial of persons eligible for burial in a national cemetery, owned by the State or such agency or political subdivision, or to any person prescribed by Administrator for burial of an eligible veteran in a cemetery other than one so reserved for provisions authorizing Administrator in his discretion to pay up to \$150 as an interment allowance to any person he prescribed.

1976—Subsec. (a). Pub. L. 94-581 inserted “, nursing home,” after “hospital” and substituted “611(a)” for “611” in provisions preceding par. (1).

1973—Pub. L. 93-43, in revising text, substituted reference to section “611” for “611(a)” in opening text of

subsec. (a), designated existing provisions of subsec. (a) as first part of par. (1) of such subsec. (a), incorporated provisions of former subsec. (c) as second part of par. (1) of subsec. (a), redesignated former subsec. (b) as par. (2) of subsec. (a), and added subsec. (b).

1966—Subsec. (b). Pub. L. 89-358 struck out last sentence including the Canal Zone in the term “State” for purposes of subsec. (b), now incorporated in section 101(20) of this title.

1961—Subsec. (b). Pub. L. 87-99 substituted “a State” and “in the same, or any other State” for “the continental United States or Hawaii” and “in the continental United States or Hawaii”, respectively, and defined State to include Canal Zone.

1960—Subsec. (b). Pub. L. 86-624 substituted “continental United States or Hawaii” for “continental United States (including Alaska)” in two places.

1959—Subsec. (b). Pub. L. 86-70 substituted “continental United States (including Alaska), the Administrator shall transport the body to the place of burial in the continental United States (including Alaska)” for “continental United States, the Administrator shall transport the body to the place of burial in the United States, or to the place of burial within Alaska if the deceased was a resident of Alaska who had been brought to the United States as a beneficiary of the Veterans’ Administration for hospital or domiciliary care”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-275, title V, §501(d), Oct. 13, 2010, 124 Stat. 2881, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply with respect to deaths occurring on or after October 1, 2011.

“(2) PROHIBITION ON COST-OF-LIVING ADJUSTMENT FOR FISCAL YEAR 2012.—No adjustments shall be made under section 2303(c) of title 38, United States Code, as added by subsection (c), for fiscal year 2012.”

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-103, title V, §501(b)(2), Dec. 27, 2001, 115 Stat. 994, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to deaths occurring on or after December 1, 2001.”

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title III, §333(b), Nov. 1, 2000, 114 Stat. 1857, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to the burial of persons dying on or after the date of the enactment of this Act [Nov. 1, 2000].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title VIII, §8042(b), Nov. 5, 1990, 104 Stat. 1388-349, provided that: “This section [amending this section] shall apply to deaths occurring on or after November 1, 1990.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-306, title IV, §404(b), Oct. 14, 1982, 96 Stat. 1443, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to deaths occurring after September 30, 1982.”

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95-479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95-479, set out as a note under section 1114 of this title.

Pub. L. 95-476, title II, §205, Oct. 18, 1978, 92 Stat. 1506, provided that:

“(a) Except as provided in subsection (b), the amendments made by this title [enacting section 1008 [now 2408] of this title and amending sections 902, 906, and 1798 [now 2302, 2306, and 3698] of this title] shall take effect on the date of the enactment of this Act [Oct. 18, 1978].

“(b) The amendment made by section 202(a) of this title [amending this section] shall take effect on October 1, 1978.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-43, §10(b), June 18, 1973, 87 Stat. 88, provided that: "Clause (1) of section 5(a) [amending this section] shall take effect on the first day of the second calendar month following the date of enactment of this Act [June 18, 1973]."

§ 2304. Claims for reimbursement

Applications for payments under section 2302 of this title must be filed within two years after the burial of the veteran. If the burial allowance was not payable at the death of the veteran because of the nature of the veteran's discharge from the service, but after the veteran's death the veteran's discharge has been corrected by competent authority so as to reflect a discharge from the service under conditions other than dishonorable, then the burial allowance may be paid if a claim is filed within two years from the date of correction of the discharge. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170, §904; Pub. L. 88-3, Apr. 2, 1963, 77 Stat. 4; Pub. L. 91-24, §7, June 11, 1969, 83 Stat. 34; Pub. L. 99-576, title VII, §701(51), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §2304 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 904 of this title as this section and substituted "2302" for "902".

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator".

1986—Pub. L. 99-576 substituted "the veteran's" for "his" in three places.

1969—Pub. L. 91-24 substituted "two years from the date of correction of the discharge" for "two years from whichever last occurs, the date of correction of the discharge or the date of enactment of this sentence".

1963—Pub. L. 88-3 authorized payment of a burial allowance in cases where it was not payable at death because of the nature of the veteran's discharge, where such discharge has been corrected by competent authority to reflect conditions other than dishonorable, and the claim is filed within two years from whichever last occurs, the date of correction of the discharge or the date of enactment of Pub. L. 88-3 [approved Apr. 2, 1963].

§ 2305. Persons eligible under prior law

The death of any person who had a status which would, under the laws in effect on December 31, 1957, afford entitlement to the burial benefits and other benefits provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall afford entitlement to such benefits, notwithstanding the failure of such person to meet such service requirements.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1170, §905; renumbered §2305, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 905 of this title as this section.

§ 2306. Headstones, markers, and burial receptacles

(a) The Secretary shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 2402(a)(4), (5), and (6) of this title.

(3) Soldiers of the Union and Confederate Armies of the Civil War.

(4) Any individual described in section 2402(a)(5) of this title who is buried in a veterans' cemetery owned by a State.

(5) Any individual who at the time of death was entitled to retired pay under chapter 1223 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(b)(1) The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating an eligible individual whose remains are unavailable. Such a headstone or marker shall be furnished for placement in a national cemetery area reserved for that purpose under section 2403 of this title, a veterans' cemetery owned by a State, or, in the case of a veteran, in a State, local, or private cemetery.

(2) For purposes of paragraph (1), an eligible individual is any of the following:

(A) A veteran.

(B) The spouse or surviving spouse of a veteran.

(C) An eligible dependent child of a veteran.

(3) For purposes of paragraph (1), the remains of an individual shall be considered to be unavailable if the individual's remains—

(A) have not been recovered or identified;

(B) were buried at sea, whether by the individual's own choice or otherwise;

(C) were donated to science; or

(D) were cremated and the ashes scattered without interment of any portion of the ashes.

(4) For purposes of this subsection:

(A) The term "veteran" includes an individual who dies in the active military, naval, or air service.

(B) The term "surviving spouse" includes a surviving spouse who had a subsequent remarriage.

(5) For purposes of this section, the term "eligible dependent child" means a child—

(A) who is under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution; or

(B) who is unmarried and became permanently physically or mentally disabled and incapable of self-support before reaching 21 years of age, or before reaching 23 years of age if pursuing a course of instruction at an approved educational institution.