

§ 5310. Payment of benefits for month of death

(a) IN GENERAL.—(1) A surviving spouse of a veteran is entitled to a benefit for the month of the veteran's death if—

(A) at the time of the veteran's death, the veteran was receiving compensation or pension under chapter 11 or 15 of this title; or

(B) the veteran is determined for purposes of section 5121 or 5121A of this title as having been entitled to receive compensation or pension under chapter 11 or 15 of this title for the month of the veteran's death.

(2) The amount of the benefit under paragraph (1) is the amount that the veteran would have received under chapter 11 or 15 of this title, as the case may be, for the month of the veteran's death had the veteran not died.

(b) CLAIMS PENDING ADJUDICATION.—If a claim for entitlement to compensation or additional compensation under chapter 11 of this title or pension or additional pension under chapter 15 of this title is pending at the time of a veteran's death and the check or other payment issued to the veteran's surviving spouse under subsection (a) is less than the amount of the benefit the veteran would have been entitled to for the month of death pursuant to the adjudication of the pending claim, an amount equal to the difference between the amount to which the veteran would have been entitled to receive under chapter 11 or 15 of this title for the month of the veteran's death had the veteran not died and the amount of the check or other payment issued to the surviving spouse shall be treated in the same manner as an accrued benefit under section 5121 of this title.

(Added Pub. L. 87-825, §4(a), Oct. 15, 1962, 76 Stat. 950, §3110; amended Pub. L. 98-160, title VII, §703(3), Nov. 21, 1983, 97 Stat. 1010; renumbered §5310 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 104-275, title V, §506(a), Oct. 9, 1996, 110 Stat. 3343; Pub. L. 105-114, title IV, §401(f), Nov. 21, 1997, 111 Stat. 2294; Pub. L. 112-154, title V, §507(a), Aug. 6, 2012, 126 Stat. 1194.)

Editorial Notes

AMENDMENTS

2012—Pub. L. 112-154, §507(a), amended section generally. Prior to amendment, text read as follows:

“(a) If, in accordance with the provisions of section 5110(d) of this title, a surviving spouse is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran's death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

“(b)(1) If the surviving spouse of a veteran who was in receipt of compensation or pension at the time of death is not entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which the veteran's death occurs, that surviving spouse shall be entitled to a benefit for that month in the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

“(2) If (notwithstanding section 5112(b)(1) of this title) a check or other payment is issued to, and in the name of, the deceased veteran as a benefit payment under chapter 11 or 15 of this title for the month in which

death occurs, that check or other payment (A) shall be treated for all purposes as being payable to the surviving spouse, and (B) if that check or other payment is negotiated or deposited, shall be considered to be the benefit to which the surviving spouse is entitled under paragraph (1). However, if such check or other payment is in an amount less than the amount of the benefit under paragraph (1), the unpaid amount shall be treated in the same manner as an accrued benefit under section 5121 of this title.”

1997—Subsec. (b)(2). Pub. L. 105-114 substituted “under paragraph (1)” for “under this paragraph” before period at end of first sentence.

1996—Pub. L. 104-275 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Pub. L. 102-40 renumbered section 3110 of this title as this section and substituted “5110(d)” for “3010(d)”.

1983—Pub. L. 98-160 substituted “surviving spouse” for “widow”, and “the death of the veteran” for “his death”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-154 effective Aug. 6, 2012, and applicable with respect to deaths that occur on or after that date, see section 507(c) of Pub. L. 112-154, set out as a note under section 5111 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-275, title V, §506(b), Oct. 9, 1996, 110 Stat. 3343, provided that: “The amendments made by this section [amending this section] shall apply with respect to the death of compensation and pension recipients occurring after December 31, 1996.”

EFFECTIVE DATE

Section effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 5311. Prohibition of certain benefit payments

There shall be no payment of dependency and indemnity compensation, death compensation, or death pension which, because of a widow's relationship with another man before enactment of Public Law 87-674, would not have been payable by the Veterans' Administration under the standard for determining remarriage applied by that agency before said enactment.

(Added Pub. L. 91-376, §8(b), Aug. 12, 1970, 84 Stat. 790, §3111; renumbered §5311, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238.)

Editorial Notes

REFERENCES IN TEXT

Public Law 87-674, referred to in text, is Pub. L. 87-674, Sept. 19, 1962, 76 Stat. 558, which was enacted Sept. 19, 1962, and amended sections 101, 103, and 3010 [now 5110] of this title to provide for the restoration of certain widows and children to the benefit rolls upon annulment of their marriages or remarriages.

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3111 of this title as this section.

§ 5312. Annual adjustment of certain benefit rates

(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a