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## **Military Death Benefits: Status and Proposals**

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David F. Burrelli  
Specialist in National Defense  
Foreign Affairs, Defense, and Trade Division

Jennifer R. Corwell  
Research Associate in Defense Resources  
Foreign Affairs, Defense, and Trade Division

# Military Death Benefits: Status and Proposals

## Summary

Department of Defense (DoD) benefits for survivors of deceased members of the armed forces vary significantly in purpose and structure. Benefits such as the death gratuity provide immediate cash payments to assist these survivors in meeting their financial needs during the period immediately following a member's death. Similarly, the Servicemembers' Group Life Insurance (SGLI) provides the life insurance policy value in a lump sum payment following the service member's death. Other benefits such as the Veteran's Administration Dependency and Indemnity Compensation (DIC) and the Survivor Benefit Plan (SBP), are designed to provide long-term monthly income. Additional death benefits provided by the DOD for survivors and dependents include housing assistance, health care, commissary and exchange benefits, educational assistance, and burial, funeral, and related benefits. Survivors may also receive death benefits from Social Security.

In response to P.L. 108-375, February 1, 2005, DOD presented proposed changes during a Senate Armed Services Committee hearing. DOD recommended an increase in the death gratuity benefit from its current amount of \$12,420 to \$100,000, limited to service members killed in an area or operation designated by the Secretary of Defense. In addition, the DOD also recommended an increase in Servicemembers' Group Life Insurance (SGLI) coverage from \$250,000 to \$400,000, with the premiums for the additional \$150,000 coverage paid for by the government for troops serving in areas or operations designated by the Secretary of Defense. Military personnel not serving in such designated areas could receive the additional coverage, but at their own expense through higher monthly premiums. As proposed by DOD, both of these measures would be made retroactive to October 7, 2001, when U.S. military operations began in Afghanistan. It has been reported that DOD has estimated that its plan would cost about \$280 million in retroactive payments alone. (Graham, Bradley, "Military Chiefs Criticize Curbs In Plan to Raise Death Benefits," *Washington Post*, Feb., 2, 2005: 20.) The President proposed these same increases as part of his FY2005 Supplemental Appropriations request. The Death Benefits Enhancements (P.L. 109-13) increased the Death Gratuity to \$100,000 and the SGLI to \$400,000 for those who die from wounds, injuries or illness that are combat or combat-training related.

This report describes the various death benefits from the Department of Defense, Department of Veterans Affairs (VA), and Social Security available to certain survivors of members of the Armed Forces who die on active duty. (This report does not consider benefits available to civilian employees of the Department of Defense.) Benefits are listed, along with their purpose, how they are calculated, and where appropriate, recent changes. Legislative proposals in the 109<sup>th</sup> Congress regarding death benefits are also described. Finally, two hypothetical examples for determining a level of death benefits, a Government Accountability Office (GAO) summary comparing military and other death related benefits, and congressional language from the Fiscal Year (FY) 2005 National Defense Authorization Act are presented in the Appendices. The report will be updated as events warrant.

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# Military Death Benefits: Status and Proposals

## Introduction

Department of Defense (DOD) benefits for survivors of deceased members of the armed forces vary significantly in purpose and structure. Benefits such as the death gratuity provide immediate cash payments to assist these survivors in meeting their financial needs during the period immediately following a member's death. Similarly, the Servicemembers' Group Life Insurance (SGLI) provides the life insurance policy value in a lump sum payment following the service members' death. Other benefits such as the Veteran's Administration Dependency and Indemnity Compensation (DIC) and the Survivor Benefit Plan (SBP), are designed to provide long-term monthly income. Survivors may also receive death benefits from Social Security.

As a part of the FY2005 National Defense Authorization Act, Congress directed the Administration to assess and recommend enhanced benefits for deceased members of the armed forces. (See Appendix C for a discussion of that legislation.) In response, on February 1, 2005, the Department of Defense (DOD) presented proposed changes to the Senate Armed Services Committee. Specifically, DOD proposed to increase death benefit payments by nearly \$250,000 to families of U.S. troops killed in designated combat zones. This proposed increase would effectively double the cash that survivors can receive in immediate government payments and life insurance proceeds to \$500,000. Defense officials are also asking that these benefits be made retroactive to October 2001 for relatives of U.S. troops killed in Iraq and Afghanistan. It has been reported that DOD has estimated that its plan would cost about \$280 million in retroactive payments alone.<sup>1</sup> The President proposed these same increases as part of his FY2005 Supplemental Appropriations request.<sup>2</sup> The Death Benefits Enhancements<sup>3</sup> increased the Death Gratuity to \$100,000 and the SGLI to \$400,000 for those who die from wounds, injuries or illness that are combat or combat-training related.

Listed below is a description of the various death benefits from the Department of Defense, Department of Veterans Affairs (VA), and Social Security available to certain survivors of members of the Armed Forces who die on active duty. The

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<sup>1</sup> Graham, Bradley, "Military Chiefs Criticize Curbs In Plan to Raise Death Benefits," *Washington Post*, Feb., 2, 2005: 20.

<sup>2</sup> U.S. President, George W. Bush, FY2005 Supplemental Appropriations Request, February 14, 2005.

<sup>3</sup> P.L. 109-13, May 11, 2005.

following describes each benefit's specific purpose, as well as current policy regarding the level of benefits available to survivors. It should be noted that some benefits, such as the Survivor Benefit Plan (SBP) and the Veteran's Administration (VA) Dependency and Indemnity Compensation (DIC), may offset one another (i.e. whenever a surviving spouse of an SBP participant is also entitled to DIC, the spouse's monthly SBP annuity is reduced by the amount of the DIC payment). Thus, calculating the level of some benefits usually involves a number of variables which can make each case different from another.

## Death Gratuity<sup>4</sup>

**Purpose:** "To provide an immediate cash payment to assist survivors of deceased members of the armed forces to meet their financial needs during the period immediately following a member's death and before other survivor benefits, if any, become available."<sup>5</sup>

In FY2004, a tax-free, lump sum of \$12,420 was paid by DOD in the event of a death while the member was serving on active duty (including certain members of the reserve components during training). It was paid to one of various "eligible survivors" as described in law.<sup>6</sup> The designated survivor of virtually all deceased DOD military personnel receives this gratuity immediately. In Fiscal Year (FY) 2004, the death gratuity statute was amended to provide that the gratuity be adjusted upward by the same amount as any increase in military basic pay.<sup>7</sup> As part of what was formally called the Death Benefits Enhancement,<sup>8</sup> the Death Gratuity was increased to \$100,000 in a case of death resulting from wounds, injuries or illnesses that occur in a combat zone (as designated by the Secretary of Defense) or in combat-related activities (including training, hazardous conditions or situations involving an instrumentality of war). This increase was made retroactive for deaths that occurred on or after October 7, 2001. These additional payments are scheduled to terminate on September 30, 2005. This increase in benefits may be extended for FY2006 and ultimately be made permanent. According to a House report<sup>9</sup> "...the [Appropriations] Committee provides...sufficient funds in support of enhanced levels of the Death Gratuity and Servicemembers Group Life Insurance program..." Section 1523 of the House version of the National Defense Authorization Act for Fiscal Year 2006 would make the increased Death Gratuity permanent as of October 1, 2005. Therefore, the House Appropriators have added funds for the continuation of these benefits, and the

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<sup>4</sup> 10 U.S.C. §§ 1475-1480; P.L. 108-136, Stat. 1520, section 646, November 24, 2003.

<sup>5</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 621.

<sup>6</sup> 10 U.S.C. § 1477.

<sup>7</sup> P.L. 108-375, Sec. 643, October 8, 2004: 708-709.

<sup>8</sup> P.L. 109-13; sec. 1013; May 11, 2005.

<sup>9</sup> H.Rept. 109-119, Making Appropriations for the Department of Defense for the Fiscal Year Ending September 30, 2006 and for other Purposes (H.R. 2863).

Armed Services Committee has added language that would make the increased Death Gratuity permanent.

## Social Security Survivors' Benefits

**Purpose:** “To require employees and employers — in the present case, members of the uniform services and the Federal Government, respectively — to jointly finance a Federal Old-Age, Survivors, Disability, and Health Insurance (OASDHI) program in order to provide pre- and post-retirement income and security to covered employees and their families.”<sup>10</sup>

Active duty military personnel have been fully covered by Social Security and have paid Social Security taxes since January 1, 1957. In addition to providing monthly benefits to civilian retirees and retired military personnel, the social security program provides benefits to the widows and widowers of deceased military and civilian retirees. Social Security survivor benefits are based on a spouse's (or former spouse's) employment, including military service, and are first payable at age 60; at age 50, if the surviving spouse is totally disabled; or, at any age if and as long as there are children under the age of 16.

In 2004, the average monthly Social Security benefit for a surviving parent of a minor was \$662. The average benefit for a child of a deceased parent was \$607. This monthly benefit is payable to a surviving dependent unmarried child who is either: (1) under age 18, (2) a full time elementary or secondary school student under age 19, or (3) a disabled person age 18 or older whose disability began before the age of 22.<sup>11</sup> A surviving widow with one child therefore would receive an average monthly benefit of \$1,269. Existing rules limit the maximum family benefit, so it would not necessarily increase by \$607 for each additional child.

## Servicemembers' Group Life Insurance (SGLI)<sup>12</sup>

**Purpose:** “To make life insurance protection available to members of the uniformed services at a reasonable cost.”<sup>13</sup>

All members of the uniformed services are automatically insured for the maximum coverage under Servicemembers' Group Life Insurance. The maximum coverage is \$250,000, which is paid in a lump sum. The cost of this coverage is

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<sup>10</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 671.

<sup>11</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 679-680.

<sup>12</sup> 38 U.S.C. §§ 1965 et seq.

<sup>13</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 615.

\$0.65 per \$10,000 of coverage per month.<sup>14</sup> Service members can decline coverage entirely or opt for less than the maximum coverage. According to the Office of the Deputy Under Secretary of Defense (Military Personnel Policy), as of November 2004, only 8.4% of active duty servicemen declined full coverage of SGLI.<sup>15</sup>

As noted above in the “Death Gratuity” section, the SGLI was increased up to \$400,000 at no additional cost for those who die from wounds, injuries, or illnesses that occur in a combat zone (as designated by the Secretary of Defense) or in combat-related activities (including training, hazardous conditions or situations involving an instrumentality of war). This increase was made retroactive for deaths that occurred on or after October 7, 2001, and would terminate on September 30, 2005. Further, a member with a spouse may not elect less than the maximum coverage without the written consent of the member’s spouse. An unmarried member who opts for less than the maximum coverage, will have their designated next of kin or designated beneficiary notified. Again, as noted above, language was included in the FY2006 Defense Appropriations Act to fund this increase for FY2006. Thus, the increase in SGLI would likely continue at least for the next fiscal year. P.L. 109-13 also changed the coverage increments that may be provided from \$10,000 to \$50,000.

Conversely, the House Armed Services Committee has proposed language in the National Defense Authorization Act for FY2006 that would afford certain members of the armed forces an allowance which recognizes the cost of SGLI coverage. As described in H.Rept. 109-89<sup>16</sup>

This section [Sec. 1528] would require the secretaries concerned to pay members serving in the theater of operations for Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) a monthly allowance equal to the deduction in pay required to pay the premium for Servicemembers’ Group Life Insurance (SGLI) coverage obtained by the member, or an amount equal to the deduction in pay the member would incur if the member had elected the maximum amount of coverage under the SGLI. The section would also require the secretaries to provide information about the allowance to members serving in OEF and OIF theaters and members projected to serve there and to afford such members the opportunity to obtain SGLI coverage or increase their existing coverage.

In a separate action, on July 26, 2005, the House passed H.R. 3200. Among its provisions, this bill repeals the language in P.L. 109-13 regarding SGLI and in its place makes permanent the increase in this benefit from \$250,000 to \$400,000. In addition, H.R. 3200, repeals the ‘spousal consent’ language regarding those who opt for less than the maximum coverage under SGLI and instead requires ‘spousal notification.’ Notification of designated next-of-kin or other designated beneficiaries would continue for unmarried servicemembers. H.R. 3200 requires the Secretary to

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<sup>14</sup> For more information see the website, online at [<http://www.insurance.va.gov/SgliSite/SGLI/sgliPremiums.htm>].

<sup>15</sup> Tom Tower, Directorate of Compensation, Office of the Deputy Under Secretary of Defense (Military Personnel Policy), (703) 693-1059, February 2, 2005.

<sup>16</sup> U.S. Congress, House Committee on Armed Services, *National Defense Authorization Act for Fiscal Year 2006*, H.Rept. 109-89, 109<sup>th</sup> Cong., 1<sup>st</sup> Sess., May 20, 2005.

make a good faith effort to provide notification, but a lack of notification does not invalidate the service member's decision. Finally, H.R. 3200 would make permanent the change in increments of SGLI coverage from \$10,000 to \$50,000.

## VA Dependency and Indemnity Compensation (DIC)

**Purpose:** "To authorize a payment to the surviving dependents of a deceased military member partially in order to replace family income lost due to the member's death and partially to serve as reparation for the death."<sup>17</sup>

VA Dependency and Indemnity Compensation benefits are integrated with the military Survivor Benefit Plan or SBP (see below). In other words, payment received via DIC brings about a dollar-for-dollar reduction in SBP benefits. DIC benefits can also be terminated as a result of remarriage by the surviving spouse. The DIC benefit is \$993 per month for the surviving spouse and \$247 per month for each child (plus if there are children under the age 18 they receive an additional \$250 per month for two years) as of January 1, 2005 for the survivors of members who died on or after January 1, 1993.<sup>18</sup> Additional benefits may be provided to a spouse if the spouse is housebound, has dependents under age 18, or between the ages of 18 and 23 and attending school, or the dependent became permanently incapable of self-support before the age of 18 due to a mental or physical disability.<sup>19</sup> Surviving parents in some cases may also be eligible for DIC benefits, depending on the parents' income and marital status.<sup>20</sup>

## Military Survivor Benefit Plan<sup>21</sup>

**Purpose:** "To establish a program to insure that the surviving dependents of military personnel who die...will continue to have a reasonable level of income."<sup>22</sup>

As originally created, the military Survivor Benefit Plan (SBP) was designed to provide an annuity to the survivors of retirement-eligible military personnel.

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<sup>17</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 627.

<sup>18</sup> Prepared Statement of the Honorable David, S.C. Chu, OUSD(P&R), Before the Senate Armed Services Committee, February 1, 2005.

<sup>19</sup> For additional information, see [<http://www.vba.va.gov/bln/21/Milsvc/Docs/Diccg.doc>].

<sup>20</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 636.

<sup>21</sup> 10 U.S.C. §§ 1447 et seq.

<sup>22</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 683.



However, recent legislation<sup>23</sup> has expanded the coverage to the survivors of individuals who die while on active duty, effective September 10, 2001. Under these provisions, the surviving spouses of active duty personnel who die are provided an annuity. This annuity for an active duty (non-retirement-eligible) member is determined by assuming the individual would have been eligible to retire with a total (100%) disability at the time of death (under sec. 1201, title 10 USC).<sup>24</sup> The surviving spouse's annuity is based on the amount of disability retired pay the service member would have received. Currently, the spouse's share is 55 percent of the member's disability retired pay if the surviving spouse is under age 62, and 35 percent if age 62 or over. As a result of language included in the FY2005 National Defense Authorization Act, this reduction in benefits for those survivors age 62 and over is scheduled to be phased out by April 1, 2008.<sup>25</sup> Depending on when the individual entered the service, the computation base may be either the terminal monthly basic pay (for those who entered service on or before September 7, 1980) or the average of the 36 months (or "high three" years) during which the member earned the highest rate of basic pay (for those who entered the service after September 7, 1980). The amount of monthly disability pay is computed either by multiplying the determined amount of basic pay by the percentage disability, or by computing 2.5 percent of basic pay times the member's years of service, whichever is higher. However, this amount cannot exceed 75 percent. Since the legislation assumes the level of disability is total (100%), the amount of basic pay (or "high three") used would be multiplied by 75 percent.

For an active duty member who is eligible to retire, the SBP benefit is computed to be 55 percent of the retired pay they would have been eligible to receive had they retired at the time of their death.

A surviving spouse who remarries prior to age 55 loses SBP eligibility. In addition, as noted above, SBP annuities may be offset or reduced by the amount received from DIC.<sup>26</sup>

## Housing<sup>27</sup>

**Purpose:** "To provide a cash allowance to military personnel not provided with government quarters adequate for themselves and their dependents to enable such personnel to obtain civilian housing as a substitute."<sup>28</sup>

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<sup>23</sup> P.L. 107-107; 115 Stat. 1151-1152, December 28, 2004.

<sup>24</sup> Under these provisions, the member's disability may not be the result of intentional neglect or misconduct.

<sup>25</sup> P.L. 108-375; 118 Stat. 1811; October 28, 2004.

<sup>26</sup> For more information on the SBP, see Burrelli, David F., *The Military Survivor Benefit Plan: A Description of Its Provisions*, CRS Report RL31664, December 9, 2004.

<sup>27</sup> *2003 Uniformed Services Almanac*, 43<sup>rd</sup> Edition: 183; 37 U.S.C. § 403 (l).

<sup>28</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation* (continued...)

Family members of a military member who dies in the line of duty are allowed 180 days' free occupancy of Government quarters or 180 days of Basic Allowance for Housing (BAH) if they live in civilian housing.<sup>29</sup> P.L. 109-13 (sec. 1022) extended these housing benefits to 365 days. BAH varies in accordance with whether military personnel have dependents or are single. It is based on annual surveys of housing costs in several hundred metropolitan areas around the United States.

The surviving spouse and dependent children receive an additional benefit entitling them to "...move one time at Government expense. Household goods will not be moved a greater distance than the personal travel. One motor vehicle can be shipped at Government expense."<sup>30</sup>

## Health Care<sup>31</sup>

**Purpose:** "To make medical care available to members of the uniformed services and their dependents in order to help ensure availability of physically acceptable and experienced personnel in time of national emergency; to provide incentives for armed forces personnel in time of national emergency; to provide incentives for armed forces personnel to undertake military service and remain in that service for a full career, and to provide military physicians and dentists exposure to the total spectrum of demographically diverse morbidity necessary to support professional training programs and ensure professional satisfaction for a medical service career."<sup>32</sup>

Unremarried surviving spouses and minor children of deceased military personnel remain eligible to receive military health care benefits subject to certain limitations. As the DOD website on military health care benefits, known as TRACER, states, "[s]urviving family members of deceased active duty service members remain eligible for TRACER benefits at the active duty dependent rates for a three-year period. At the end of the three-year period, TRACER eligibility continues, but at the retiree dependent rates."<sup>33</sup> Surviving spouses remain eligible for TRACER benefits throughout their lifetime if they do not remarry. Surviving unmarried dependents remain eligible for TRACER benefits until the age of 21, or until the age of 23 if they are a full-time student. Eligibility for TRACER may also

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<sup>28</sup> (...continued)

*Background Papers*, 5<sup>th</sup> ed., September 1996: 81.

<sup>29</sup> *2003 Uniformed Services Almanac*, 43<sup>rd</sup> Edition: 183.

<sup>30</sup> Statement by General Richard A. Cody, Vice Chief of Staff United States Army, before the Senate Armed Services Committee, February 1, 2005.

<sup>31</sup> 10 U.S.C. §§ 1072 et seq.

<sup>32</sup> U.S. Department of Defense, Office of the Secretary of Defense, *Military Compensation Background Papers*, 5<sup>th</sup> ed., September 1996: 661.

<sup>33</sup> See [<http://www.tricare.osd.mil>] for more information. See also CRS Issue Brief IB93103, *Military Medical Care Services: Questions and Answers*, by Richard Best,, updated regularly.

be extended for a dependent if the child is incapable of self-support because of a mental or physical disability and the condition existed prior to age 21.<sup>34</sup>

## Commissary and Exchange Benefits<sup>35</sup>

**Purpose:** “To provide quality merchandise and necessary services to authorized patrons at moderate prices and to generate reasonable earnings to supplement appropriated funds for the support of Department of Defense morale, welfare, and recreation (MWR) programs.”<sup>36</sup>

Under regulations, a surviving spouse of a member who dies while on active duty remains eligible to use commissary (military supermarkets) and exchange (military department stores) stores until the spouse remarries. Unmarried dependent children retain commissary and exchange store privileges until the age of 21, or until the age of 23 if they are a full-time student. Eligibility for commissary and exchange stores may be extended for a dependent if the child is incapable of self-support because of a mental or physical disability and the condition existed prior to age 21.<sup>37</sup>

## Child Care<sup>38</sup>

**Purpose:** “Quality child and youth programs are vital to Service families. Child care is a workforce issue which impacts the effectiveness and readiness of the force.”

Children of a military member who dies in the line of duty are allowed to continue attending military child care facilities for 180 days.

## Survivors’ and Dependents’ Educational Assistance Program (DEA)<sup>39</sup>

**Purpose:** “...providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces...the educational program extended to the surviving spouses of veterans

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<sup>34</sup> See [<http://www.tricare.osd.mil/Factsheets/viewfactsheet.cfm?id=174>] for more information.

<sup>35</sup> 10 U.S.C. §§ 1061 et seq.

<sup>36</sup> U.S. Department of Defense, Office of the Secretary of Defense, Military Compensation Background Papers, 5<sup>th</sup> ed., September 1996: 703.

<sup>37</sup> DOD 1330.17-R, Armed Services Commissary Regulations (ASCR), April 1987.

<sup>38</sup> Witte, Janice, Director of the Office of Children and Youth, DUSD(MPP), (703) 614-3330.

<sup>39</sup> See [<http://www.gibill.va.gov/education/C35pam.htm>] for more information.

who died of service-connected disabilities and to spouses of veterans with a service-connected total disability permanent in nature is for the purpose of assisting them in preparing to support themselves and their families at a standard of living level which the veteran, but for the veteran's death or service disability, could have expected to provide for the veteran's family."<sup>40</sup>

Dependents' Educational Assistance (DEA) provides education and training opportunities to eligible dependents of certain veterans, including the surviving spouse and children of a service member who died of a service-connected disability (the disability must have arisen from active service in the Armed Forces). This VA program offers up to \$803 a month for a maximum of 45 months to pay for education benefits.<sup>41</sup> These benefits may be used for degree and certificate programs, apprenticeship, and on-the-job training, as well as correspondence courses for surviving spouses. Remedial, deficiency, and refresher courses may be approved under certain circumstances. The surviving spouse's eligibility to receive these benefits ends 20 years from the date the VA finds them eligible.<sup>42</sup> In addition, a surviving spouse's eligibility for this benefit ends if she/he is remarried before the age of 57. However, the termination of a surviving spouse's remarriage, either by death or divorce, will reinstate DEA benefits to the surviving spouse.<sup>43</sup> Dependent children of the veteran may receive the benefits of attending school or job training between the ages of 18 and 26. In certain instances, it is possible to begin receiving the benefit before they reach the age of 18 and to continue receiving it after the age of 26. Also, marriage is not a bar to this benefit for children of the deceased or disabled veteran.<sup>44</sup>

In addition to DEA, the "VA will also pay a special Montgomery GI Bill death benefit to a designated survivor in the event of a service-connected death of an individual while on active duty or within one year after discharge or release. The deceased must either have been entitled to educational assistance under the Montgomery GI Bill program or a participant in the program who would have been so entitled but for the high school diploma or length of service requirement. The amount paid will be equal to the participant's actual military pay reduction, less any education benefits paid."<sup>45</sup>

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<sup>40</sup> 38 U.S.C. §§ 3500 et seq.

<sup>41</sup> Christenson, Sig, "GIs' Families Not Left Destitute," *San Antonio Express-News*, February 3, 2005.

<sup>42</sup> 38 U.S.C. § 3512(b)(1)(C) as amended by P.L. 108-452.

<sup>43</sup> Statement of Epley, Robert J., Associate Deputy Under Secretary for Policy and Program Management, Veterans Benefits Administration, Department of Veterans Affairs before the Senate Committee on Armed Services, February 1, 2005.

<sup>44</sup> See [<http://www.gibill.va.gov/education/C35pam.htm>] for more information.

<sup>45</sup> Federal Benefits for Veterans and Dependents, Department of Veteran Affairs, 2004 edition, p. 56.

## Burial, Funeral, and Related Benefits

Under law, the responsibilities of the Federal Government are the following:<sup>46</sup>

[T]he Secretary [of the military department] concerned may provide for the recovery, care and disposition of the remains of personnel who die while on active duty including the following:

- Recovery and identification of the remains.
- Notification of the next of kin or other appropriate person.
- Preparation of the remains for burial, including cremation if requested by the person designated to direct the disposition of the remains.
- Furnishing of a uniform or other clothing.
- Furnishing of a casket or urn, or both, with outside box.
- Hearse service.
- Funeral director's services.
- Transportation of the remains, and round trip transportation and prescribed allowances for an escort of one person, to the place selected by the person designated to direct disposition of the remains or, if such a selection is not made, to a national or other cemetery which is selected by the Secretary and in which burial of the decedent is authorized.
- Interment of the remains.<sup>10</sup> Presentation of a flag of the United States to the person designated to direct disposition of the remains, except in the case of a military prisoner who dies while in custody of the Secretary and while under a sentence that includes a discharge.
- Presentation of a flag of equal size to the flag presented under paragraph 10 (above) to the parents or parent, if the person to be presented a flag under paragraph 10 is other than the parent of the decedent.

When a service member dies, the DOD's Casualty Assistance Office (CAO) sends personnel to notify the next-of-kin of the loss. This representative then works with the family following notification of the loss, through funeral preparations, burial and the entire process of determining benefits and compensation. They provide counseling, arranging for the military funeral (if desired), serving as an official representative if/when problems arise, and ensuring that the families receive the benefits and compensation due to them.<sup>47</sup> Families have access to their CAO

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<sup>46</sup> 10 U.S.C. § 1481 et seq.

<sup>47</sup> Prepared Statement of the Honorable David S.C. Chu, OUSD(P&R), Before the Senate Armed Services Committee, February 1, 2005.

representative during the days, weeks, months and years after the service member's death.<sup>48</sup>

Further, if an individual pays any expense payable by the United States the Secretary is authorized to reimburse the individual or her/his representative. The payment of these expenses is limited to amounts not larger than what would have normally been incurred by the Secretary in furnishing the supply or service concerned.

Although not a "death benefit" per se, special rules apply to those whose remains can not be recovered, as well as situations in which commingled remains cannot be identified. In these circumstances, burial of the remains in a common grave at a national cemetery may be considered necessary.

Military honors are provided at the time of burial. Headstones and markers are also provided. Those who die on active duty may be buried at Arlington National Cemetery. In addition, the member's spouse and dependent children may also be buried at Arlington subject to limitations.<sup>49</sup> Provisions for burial in other national cemeteries or in state veterans cemeteries vary.

## **Legislative Proposals in the 109<sup>th</sup> Congress, 1<sup>st</sup> Session, on Military Death Benefits**

**H.R. 292.** Representative Spencer Bachus et al. Introduced January 20, 2005. Purpose: To amend title 10, United States Code, to increase the amount of the military death gratuity from \$12,000 to \$100,000. This bill was referred to the Committee on Armed Services.

**H.R. 377.** Representative Terry Everett. Introduced January 26, 2005. Purpose: To improve death benefits for the families of deceased members of the armed forces, and for other purposes. This bill was referred to the Committee on Armed Services.

**H.R. 407.** Representative Richard Pombo. Introduced January 26, 2005. Purpose: To authorize space-available transportation on Department of Defense aircraft for an individual who is a surviving spouse or dependent child of a member

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<sup>48</sup> Statement by General Richard A. Cody, Vice Chief of Staff United States Army, before the Senate Armed Services Committee, February 1, 2005.

<sup>49</sup> The surviving spouse, minor child, or permanently dependent child of any person already buried in Arlington National Cemetery may also be buried there. In addition, a widow or widower of the following may be buried in Arlington National Cemetery: a member of the Armed Forces who was lost or buried at sea or officially determined to be missing in action; a member of the Armed Forces who is interred at a U.S. military cemetery overseas that is maintained by the American Battle Monuments Commission; a member of the Armed Forces who is interred at Arlington National Cemetery as part of a group burial. For more information on burial limitations in Arlington National Cemetery, see *2004 Uniformed Services Almanac*, 44<sup>th</sup> ed.: 179-180.

of the Armed Forces who died on active duty when that individual is traveling with a relative of the deceased member who is otherwise eligible for such space-available transportation. This bill was referred to the Committee on Armed Services.

**H.R. 447.** Representative Marsha Blackburn. Introduced February 1, 2005. Purpose: To increase the amount of the military death gratuity to \$100,000. This bill was referred to the Committee on Armed Services.

**H.R. 460.** Representative Chet Edwards. Introduced February 1, 2005. Purpose: To amend title 38, United States Code, to increase the maximum coverage under the Servicemembers' Group Life Insurance and Veterans' Group Life Insurance programs from \$250,000 to \$500,000. This bill was referred to the Committee on Veterans' Affairs.

**H.R. 493.** Representative Silvestre Reyes. Introduced February 1, 2005. Purpose: To establish an allowance to cover the cost of premiums for Servicemembers' Group Life Insurance for members of the Armed Forces serving in combat zones, for junior enlisted members, and for certain other members. This bill was referred to the Committee on Armed Services.

**H.R. 502.** Representative Christopher H. Smith. Introduced February 1, 2005. Purpose: To increase the amounts payable under the Department of Defense death gratuity program and the Servicemembers' Group Life Insurance program. This bill was referred to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

**H.R. 666.** Representative John M. Spratt, Jr. Introduced February 8, 2005. Purpose: To establish a new allowance for members of the Armed Forces serving in Iraq or Afghanistan to cover the premiums for Servicemembers' Group Life Insurance coverage obtained by the members. This bill was referred to the Committee on Armed Services.

**H.R. 808.** Representative Henry E. Brown, Jr. Introduced March 14, 2005. Purpose: To amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation. This bill was referred to the Committee on Armed Services.

**H.R. 832.** Representative Maxine Waters. Introduced February 15, 2005. Purpose: To amend title 10, United States Code, to increase to \$100,000 the amount payable under the Department of Defense death gratuity program and to amend title 38, United States Code, to increase to \$400,000 the maximum coverage under Servicemembers' Group Life Insurance program. This bill was referred to the Committees on Armed Services and Veterans' Affairs.

**H.Res. 271.** Representative Chet Edwards. Introduced May 11, 2005. Purpose: Providing for consideration of the bill (H.R. 808) to amend title 10, United States Code, to repeal the offset from surviving spouse annuities under the military Survivor

Benefit Plan for amounts paid by the Secretary of Veterans Affairs as dependency and indemnity compensation. This bill was referred to the Committee on Rules.

**H.R. 968.** Representative Jim Saxton. Introduced February 17, 2005. Purpose: To amend title 10, United States Code, to change the effective date for paid-up coverage under the military Survivor Benefit Plan from October 1, 2008, to October 1, 2005. This bill was referred to the Committee on Armed Services.

**H.R. 1268.** Representative Jerry Lewis. Introduced March 11, 2005. Became P.L. 109-13, May 11, 2005. An Act Making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for fiscal year ending September 30, 2005, and for other purposes.

**H.R. 1815.** Representative Duncan Hunter. Introduced April 26, 2005. National Defense Authorization Act for Fiscal Year 2006. Referred to the Committee on Armed Services.

**H.R. 2046.** Representative Steve Buyer. Introduced May 3, 2005. Servicemembers' Health Insurance Protection Act of 2005. Referred to the Committee on Veterans' Affairs.

**H.R. 2131.** Representative Chet Edwards. Introduced May 5, 2005. Purpose: To improve benefits for members of the Armed Forces and veterans and for their dependents and survivors. This bill was referred to the Committees on Veterans' Affairs, Ways and Means, and Armed Services.

**H.R. 2747.** Representative Bob Filner. Introduced June 7, 2005. Disabled Veterans Life Insurance Enhancement Act of 2005. This bill was referred to the House Veterans' Affairs Committee.

**H.R. 2986.** Representative Robert E. Andrews. Introduced June 20, 2005. Purpose: To amend title 10, United States Code, to allow a participant in the military Survivor Benefit Plan who has designated an insurable interest beneficiary under the plan to designate a new beneficiary upon the death of the previously designated beneficiary. This bill was referred to the Committee on Armed Services.

**H.R. 3200.** Representative Jeff Miller. Introduced July 11, 2005. Servicemembers' Group Life Insurance Enhancement Act. This bill was referred to the House Committee on Veterans' Affairs, passed in the House and referred to the Senate Committee on Veterans' Affairs. This bill was passed by the House (424-0) on July 26, 2005 and sent to the Senate where it was referred to the Committee on Veterans' Affairs.

**S. 3.** Senator Judd Gregg. Introduced January 24, 2005. Purpose: To increase the automatic maximum coverage under Servicemembers' Group Life Insurance from \$250,000 to \$300,000. This bill was referred to the Committee on Finance.

**S. 11.** Senator Carl Levin. Introduced January 24, 2005. Purpose: To ensure that the strength of the Armed Forces and the protections and benefits for members of the Armed Forces and their families are adequate for keeping the commitment of



the people of the United States to support their service members, and for other purposes. This bill was referred to the Committee on Finance.

**S. 42.** Senator George Allen. Introduced January 24, 2005. Purpose: To increase the death gratuity payable with respect to deceased members of the Armed Forces, and for other purposes. This bill was referred to the Committee on Armed Services.

**S. 44.** Senator Chuck Hagel. Introduced January 24, 2005. Purpose: To increase the death gratuity from \$12,000 to \$100,000. This bill was referred to the Committee on Armed Services.

**S. 77.** Senator Jeff Sessions. Introduced January 24, 2005. Purpose: To increase the death benefits for families of deceased members of the armed forces, and for other purposes. This bill was referred to the Committee on Armed Services.

**S. 121.** Senator Mike DeWine. Introduced January 24, 2005. Purpose: To improve benefits for survivors of deceased members of the Armed Forces, and for other purposes. This bill was referred to the Committee on Armed Services.

**S. 185.** Senator Bill Nelson. Introduced January 26, 2005. Purpose: To repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation. This bill was referred to the Committee on Armed Services.

**S. 418.** Senator Michael B. Enzi. Introduced February 17, 2005. Military Personnel Financial Services Protection Act. This bill was referred to the Committee on Banking, Housing and Urban Affairs.

**S. 423.** Senator Rick Santorum. Introduced February 17, 2005. Purpose: A bill to amend title 38, United States Code, to make a stillborn child an insurable dependent of the Servicemembers' Group Life Insurance program. This bill was referred to the Committee on Veterans' Affairs.

**S. 460.** Senator John F. Kerry. Introduced February 18, 2005. Purpose: A bill to expand and enhance benefits for members of the Armed Forces and their families, and for other purposes. This bill was referred to the Committee on Finance.

**S. 523.** Senator Ken Salazar. Introduced March 3, 2005. Purpose: A bill to amend title 10, United States Code, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation, and for other purposes. This bill was referred to the Committee on Armed Services.

**S. 806.** Senator Larry E. Craig. Introduced April 14, 2005. Purpose: A bill to amend title 38, United States Code, to provide a traumatic injury protection rider to servicemembers insured under 1967(a)(1) of such title. This bill was referred to the Committee on Veterans' Affairs.

**S. 871.** Senator Carl Levin. Introduced April 21, 2005. Standing With Our Troops Act of 2005. Placed on the Legislative Calendar.

**S. 1028.** Senator Hillary Rodham Clinton. Introduced May 12, 2005. Military Personnel Financial Services Education Act of 2005. This bill was referred to the Committee on Armed Services.

**S. 1042.** Senator John Warner. Introduced May 17, 2005. National Defense Authorization Act for Fiscal Year 2006. This bill was referred to the Committee on Armed Services. Senate floor action has occurred and the bill was returned to the Calendar.

**S. 1043.** Senator John Warner. Introduced May 17, 2005. Department of Defense Authorization Act for Fiscal Year 2006. This bill was referred to the Committee on Armed Services and placed on the Legislative Calendar.

**S. 1235.** Senator Larry E. Craig. Introduced June 14, 2005. Purpose: A bill to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of \$400,000 in coverage under servicemembers' life insurance and veterans' group life insurance programs, and for other purposes. This bill was referred to the Committee on Veterans' Affairs.

## **Appendix A. Two Hypothetical Examples for Determining a Level of Death Benefits**

Determining the value of death benefits to survivors is highly dependent upon individual circumstances. Such variables include increases in benefits resulting from annual cost of living adjustments, possible changes in eligibility (such as remarriage), tax implications, etc. In addition, such an assessment would need to take into consideration all benefits incurred as a result of military service of the decedent. (As noted above, these would include social security benefits.) Since Dependency and Indemnity Compensation are integrated with SBP, these benefits are considered here. Social Security benefits have been excluded from these examples because the primary focus of this report is to examine the death benefits provided by the Department of Defense and the Department of Veteran Affairs. Any computation of death benefits based on a hypothetical situation is unlikely to be representative of the “average” or “typical” benefits received by the survivors of military personnel who die while on active duty. Indeed, the value of many of the benefits, such as health care and commissary/exchange privileges, cannot be quantified.

The following examples are, at best, rough estimates, and are intended for illustrative purposes only.

The first example consists of a Marine Corps Corporal (E-4) who is killed while on active duty in Iraq. The Corporal has been in the service for four years. Given the above, the Corporal’s spouse could receive a \$100,000 death gratuity. Assuming the Corporal had maintained full participation in the SGLI, the surviving spouse would also receive an additional \$400,000.

The basic DIC benefit for this Corporal’s spouse is \$993 per month. The 2004 basic pay of the Corporal is \$1,814.10 per month. This is the figure used in determining the SBP benefit, although the actual figure would be slightly less since it would be based on the average 36 months of basic pay (high three). The disability pay of such an individual is 75 percent of basic pay, or \$1,360.58 per month. Under SBP coverage, the surviving spouse would receive 55 percent of this amount, or approximately, \$748 per month. However, because there is a dollar-for-dollar offset with DIC, the entire SBP is offset by DIC and the spouse receives only the monthly DIC benefit of \$993. Nevertheless, the spouse remains eligible to receive SBP as long as he/she does not remarry prior to reaching the age 55. Further, SBP benefits are subject to annual cost of living increases. Assuming the surviving spouse is 30 years old at the time of the Corporal’s death, assuming no cost of living adjustments, and assuming the spouse does not remarry and lives to the age of 74, it is possible to compute an approximate life time benefit from SBP/DIC. Such an individual could expect to receive approximately \$524,304 from SBP/DIC. If the Death Gratuity and SGLI are added, the total is \$1,024,304.

**Table 1. Corporal's (E-4) Death Benefits<sup>a</sup>**

Death Gratuity		\$100,000
SGLI		\$400,000
DIC (monthly)		\$993
SBP (monthly, spouse under age 62)	\$748 less \$993 DIC offset	\$0
Total (spouse under age 62)	DIC only	\$993
SBP before 2008 (monthly, spouse 62 or over)	\$476 less DIC offset	\$0
Total (monthly, spouse 62 or over)	DIC only	\$993

The second example consists of an Air Force Lieutenant Colonel (O-5), with eight years of service, who dies while on active duty. The basic DIC benefit for the Lieutenant Colonel's spouse is \$993 per month. As in the case above, the Lieutenant Colonel's spouse would be eligible to receive both the death gratuity (\$100,000) and the full SGLI benefit (\$400,000). The basic pay of this officer is \$4,431.60 per month. Using the same assumptions as those in the above case, the officer's spouse can expect to receive approximately \$1,828.04 per month (from SBP) until age 62. If the spouse reaches age 62 before 2008, this monthly SBP amount may be reduced. After 2008, it will remain at 55 percent. For the purpose of this example, SBP will remain at the 55 percent level. Finally, given the above assumptions, such an individual could expect to receive a lifetime benefit of approximately \$965,184 from SBP/DIC. With the Death Gratuity and SGLI, the total is \$1,465,184.

**Table 2. Lieutenant Colonel's (O-5) Death Benefits<sup>a</sup>**

Death Gratuity		\$12,420
SGLI		\$250,000
DIC (monthly)		\$993
SBP (monthly, spouse under age 62)	\$1,828 less \$993 DIC offset	\$835
Total (spouse under age 62)	DIC + SBP	\$1,828
SBP before 2008 (monthly, spouse 62 or over)	\$1,163 less \$993 DIC offset	\$170
Total (monthly, spouse 62 or over)	DIC + SBP	\$1,163

a. Amounts are rounded to the nearest dollar.

Again, it must be emphasized that these examples are for broad illustrative purposes only and can not incorporate the full range of variables that could apply in any specific instance. Indeed, the amount received can be increased by including social security benefits. In addition, many surviving spouses have designated their child(ren) as SBP beneficiary(ies), thus eliminating any offset that occurs when the spouse receives DIC. Finally, it is not possible to incorporate the full range of in-kind benefits such as health care, housing, etc., that may substantially increase the actual value of these benefits.

## **Appendix B. Government Accountability Office (GAO) Summary on Military and Civilian Death Benefits**

In July 2004, the Government Accountability Office (GAO) released a report comparing death benefits of military and civilian government employees.<sup>50</sup> The following is a verbatim reproduction from the summary of that report “What GAO Found” (summary page):

The military provides survivor benefits that are comparable in type but not in amount to those provided by 61 civilian government entities (federal government, 50 states and the District of Columbia, and 9 cities with populations of at least 1 million) when employees die in the line of duty.

- Social Security payments, a death gratuity, burial expenses, and life insurance are four types of lump sum survivor benefits provided by the military and at least some government entities; the federal government and some states additionally provide a lump sum payment through their retirement plans. Recurring payments are also provided by Social Security to the survivors for deceased service members and most deceased government employees in 61 civilian government entities GAO studied. Other types of payments are specific to the military or civilian government entities. GAO identified two programs with recurring payments for the military and two other types of programs for the civilian government entities.
- For the four hypothetical situations GAO used to examine the amount of cash payments provided to survivors, survivors of deceased service members almost always obtain higher lump sums than do the survivors of deceased employees from 61 civilian government entities. The amount of recurring payments to deceased service members’ survivors in three of the four situations exceeds those provided by the federal government, typically exceeds those provided by at least one-half of the states, but are typically less than those provided by one-half the cities.
- The military also provides more types of noncash survivor benefits than do civilian government entities, with some benefits being comparable in type and others differing among the entities.

The survivors of civilian government employees in some high-risk occupations may receive supplemental benefits — a death gratuity, higher life insurance, higher benefits from the retirement plan, or a combination of the three — beyond those that the entities provide to civilian government employees in general. For example,

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<sup>50</sup> United States Government Accountability Office, Military Personnel, Survivor Benefits for Servicemembers and Federal, State, and City Government Employees, GAO-04-814, July 2004, summary page. Highlights of the report may be obtained at [<http://www.gao.gov>].

survivors of federal, state, and city government law enforcement officers and firefighters who die in the line of duty may be entitled to a lump sum payment of more than \$267,000 under the Public Safety Officers' Benefits Act. Further, 34 states and 5 cities provide survivors of employees in high-risk occupations with additional cash benefits that are not available to survivors of state and city employees in general. The addition of these supplemental cash benefits to those provided to the survivors of deceased general government employees can result in lump sum and recurring payments being generally higher for survivors of government employees in high-risk occupations than for service members' survivors.

## **Appendix C. Death Benefit Assessment Provisions in the National Defense Authorization Act for FY2005<sup>51</sup>**

In the FY2005 National Defense Authorization Act (P.L. 108-375; October 28, 2004; 118 Stat. 1811) Congress included language instructing DOD to:

...transmit to Congress assessments and recommendations regarding legislation on proposals that would provide enhanced death benefits for survivors of deceased members of the uniformed services. Those assessments and recommendations regarding legislation shall include provisions for the following:<sup>52</sup>

(1) Increase the maximum benefit amount of Servicemembers' Group Life Insurance to \$350,000, provide a minimum benefit amount of \$100,000 at no cost to the insured members of the uniformed services who elect maximum coverage, and subject these benefits to annual adjustments.

(2) Each member of the uniformed services who dies while on the line of active duty, should receive a minimum death gratuity that totals the amount of basic pay, allowances and special pays which the deceased member would have been entitled to receive if the member had not died but continued to serve on active duty for an additional year.

(3) Uniformed service members who die as a result of an injury caused by or incurred while exposed to hostile action (including any hostile fire or explosion and any hostile action from a terrorist source), should receive twice the amount of benefits described in the paragraph above.

(4) These benefits should be made retroactive to members who died on or after October 7, 2001 while deployed on active duty supporting Operation Enduring Freedom and to members who die on active duty on or after March 19, 2003 while deployed in support of Operation Iraqi Freedom.

Congress has also expressed general support for "...any other new death benefits or enhancement of existing death benefits that the President recommends."<sup>53</sup>

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<sup>51</sup> Congressional Record, October 8, 2004: H9229-H9230.

<sup>52</sup> Congressional Record, October 8, 2004: H9229.

<sup>53</sup> Congressional Record, October 8, 2004: H9230.