



Veterans' Benefits: Dependency and Indemnity Compensation (DIC) for Survivors

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Summary

The Department of Veterans Affairs (VA) administers directly, or in conjunction with other federal agencies, programs that provide benefits and other services to veterans and their spouses, dependents, and beneficiaries.

One of the benefits administered by the VA is Dependency and Indemnity Compensation (DIC) for survivors of certain servicemembers and veterans. DIC is a monthly tax-free cash payment to survivors and dependents of servicemembers killed while on active military duty, and for survivors and dependents of certain veterans. Survivors of veterans who die from service-related conditions are eligible for DIC. Survivors of veterans who die from non-service-connected conditions may be eligible for DIC if the veteran was eligible for, or was receiving, disability compensation as totally disabled (a 100% rating) for a period of time (specified in statute) before the veteran's death.

Several policy issues are associated with DIC, including the DIC offset of Survivor Benefit Plan (military retirement survivor) payments, often referred to as the "widow's tax"; adequacy of the payments for survivors compared with other retirement systems payments to surviving spouses; the remarriage age of 57; length of time for a totally disabled rating for non-service-connected deaths to qualify for DIC; and maximum DIC payment for parents based on income levels that have not been adjusted for inflation.

This report outlines the eligibility requirements and benefit levels for DIC and related policy issues. Legislation has been introduced in the 111th Congress related to the issues discussed in this paper. Although none of the bills introduced have seen legislative action, an amendment (S.Amdt. 1515) to S. 1390 was adopted on the Senate floor. This report will be updated as needed for legislative changes and additional information.

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The Department of Veterans Affairs (VA) offers directly, or in conjunction with other federal agencies, several benefits for surviving spouses, children, and dependent parents of deceased veterans to provide them with financial, educational, and emotional support. Among these various programs, Dependency and Indemnity Compensation (DIC) is a monthly tax-free cash payment for eligible surviving spouses, children, and dependent parents.

DIC has been paid in some form (monthly cash payments or insurance benefits) to survivors since the Revolutionary War. There were modifications after each war until the 1950s when the federal government mandated a more streamlined process that created the system used currently for survivors of veterans and military servicemen.

Several policy issues are associated with DIC, including the DIC offset of Survivor Benefit Plan (military retirement survivor) payments, often referred to as the “widow’s tax”; adequacy of the payments for surviving spouses compared with the payments made by retirement systems to surviving spouses; remarriage age of 57; length of time for a totally disabled rating for non-service-connected deaths to qualify for DIC; and maximum DIC payment for parents based on income levels that have not been adjusted for inflation.

This report outlines the eligibility requirements and benefit levels for DIC, the policy issues associated with DIC, and legislation in the 111th Congress related to DIC.

Eligibility Requirements

The eligibility for DIC by survivors is based on (1) the eligibility of the veteran, which is determined by the circumstances of the veteran’s death and his or her disability compensation rating; and (2) the survivor meeting certain criteria related to either relationship to the veteran, age, or income.

Veteran Eligibility

The recipients of DIC must be the survivors of qualifying veterans. By statute, a “veteran” is defined as a “person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.” DIC is paid to eligible survivors for three categories of veterans whose deaths fit one of the following circumstances:

1. veterans who died on active duty¹, active duty for training, or inactive duty for training;
2. veterans who died due to service-connected disabilities²; or

¹ Active duty is considered to include (1) full-time service in the Army, Navy, Marine Corps, Air Force, or Coast Guard, other than active duty for training (38 U.S.C. § 101(21)(A); 38 C.F.R. § 3.6(b)(1)); (2) full-time service as a commissioned officer in the Public Health Service (38 U.S.C. § 101(21)(B); 38 C.F.R. § 3.6(b)(2)); (3) full-time service as a commissioned officer at the Coast and Geodetic Survey, Environmental Services Administration, or National Oceanic and Atmospheric Administration (38 U.S.C. § 101(21)(C); 38 C.F.R. § 3.6(b)(3)); (4) service as a cadet at a military academy (38 U.S.C. § 101(21)(D); 38 C.F.R. § 3.6(b)(4)); (5) attendance by active-duty members at certain prep schools associated with military academies (38 C.F.R. § 3.6(b)(5)); and (6) authorized travel to or from such duty or service (38 U.S.C. § 101(21)(E); 38 C.F.R. § 3.6(b)(6)).

3. veterans who died from non-service-related causes not as a result of willful misconduct and were receiving, or eligible to receive, disability compensation from the VA for service-connected disabilities rated at 100% subject to the following stipulations:³
 - the disabilities were rated as 100% disabled for 10 years or more prior to death;
 - the disabilities were rated as 100% since discharge or release from active duty for at least five years prior to death; or
 - the veterans were prisoners of war who had service-connected disabilities rated at 100% for at least one year prior to death after September 30, 1999.⁴

The VA determines the eligibility of veterans and their entitlement to disability compensation through evidence found in military department service records and circumstances of death.⁵

What is a “Veteran” for the Purposes of VA Benefits?

Federal statutes define “veteran” as a “person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.” [38 U.S.C. § 101(2); 38 C.F.R. § 3.1(d)]. The VA largely bases its determination of veteran status upon military department service records. In addition to the member’s service records, other factors affect his or her classification as a “veteran” and may affect future benefits. These factors include the following:

- *Discharge criteria:* (38 U.S.C. § 101(2); 38 C.F.R. § 3.1(d)).
- *Active military, naval or air service:* (38 U.S.C. § 101(2); 38 C.F.R. § 3.1(d)).
- *Whether the service was during “time of war.”* (38 U.S.C. § 101(6)-(11); 38 C.F.R. § 3.2).
- *Minimum active-duty service requirement:* (38 U.S.C. § 5303A 38, C.F.R. § 3.12A).

After it has been proved that the discharged servicemember meets these criteria, he or she is considered to be a “veteran,” and may be eligible for certain benefits relating to health care, education, and other services provided by the VA.

(Information provided by Douglas Reid Weimer, legislative attorney, American Law Division, CRS.)

Recipient Eligibility

The dependents of veterans are not generally entitled to all benefits administered by the VA, but some benefits are available based on the relationship the dependent may have had with the veteran. If the eligibility criteria for DIC related to the veteran’s death are met, the survivors also have certain criteria to meet to be eligible for DIC. There are three different groups of recipients: spouses, children, and dependent parents of deceased veterans. Each group has specific eligibility requirements.

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² A service-connected disability is defined in 38 U.S.C. §101(16).

³ Eligibility for non-service-connected deaths of certain veterans rated totally disabled was added by P.L. 100-687.

⁴ 38 U.S.C. § 1318.

⁵ For more information regarding VA disability requirements, see CRS Report RL33113, *Veterans Affairs: Basic Eligibility for Disability Benefit Programs*, by Douglas Reid Weimer.

Surviving Spouses

A surviving spouse is eligible if he or she

- was married to the veteran for at least one year before the veteran's death⁶, or
 - has a child with the veteran, or
 - if the veteran left the military due to a service-connected disability, the marriage was within 15 years of the discharge;
- cohabited with the veteran for the duration of the marriage unless the couple underwent a period of separation that was not the fault of the surviving spouse; and
- has not remarried before reaching age 57.⁷

Surviving Children

Surviving children⁸ are eligible for DIC if they are independent of the surviving spouse, unmarried, and below the age of 18. If they are 18 to 23, they must be pursuing an approved course of education to be eligible for DIC.⁹ Children who are permanently incapable of supporting themselves at the age of 18 or older remain entitled to DIC.¹⁰

Surviving Parents

Surviving parents are required to provide evidence of financial dependence on the deceased veteran before becoming eligible for DIC. This evidence is gained through a calculation of countable income¹¹ by the VA that cannot exceed the amounts outlined in the Income for VA Purposes (IVAP) tables.¹²

Monthly Benefit Amounts

Surviving Spouses

Surviving spouses receive monthly benefits at a current base rate of \$1,154 if the veteran died on or after January 1, 1993.¹³ Otherwise, payment is based on the veteran's pay grade at the time of

⁶ This requirement does not exist for surviving spouses of a servicemember killed on active military duty.

⁷ Congress passed the Veterans' Benefits Act of 2003, which allowed surviving spouse to remarry after age 57.P.L. 108-183; 38 U.S.C §§103, 1304.

⁸ Definitions of who is considered a child for the purpose of VA benefits are outlined in 38 U.S.C § 101 (4).

⁹ Students receiving DIC are not able to concurrently receive education benefits under the G.I. Bill or from the VA Survivors' and Dependents Educational Assistance Program under 38 USC § 3562.

¹⁰ 38 U.S.C §§ 1313, 1314.

¹¹ Exclusions for countable income are outlined in 38 CFR § 3.272, available at <http://law.justia.com/us/cfr/title38/38-1.0.1.1.4.1.62.101.html>.

¹² The applicable rate table can be found at VA's website, at <http://www.vba.va.gov/bln/21/Rates/comp04.htm#BMC1>.

¹³ All benefits listed are adjusted for cost of living expenses coinciding with the percentage decided for Social Security (continued...)

death with the current lowest rate being \$1,154.¹⁴ A higher amount may be provided to the surviving spouse for several reasons:

- if the veteran, eight years before death was receiving or entitled to receive disability compensation for a service-connected disability rated at totally disabled (100%);
- if the surviving spouse has dependent children; or
- if the surviving spouse has a disability that requires aid and assistance or is permanently housebound.

If all of these factors are considered, a surviving spouse could currently receive a total of up to \$1,686, along with \$286 for each dependent child under the age of 18.¹⁵ There is also an additional benefit provided for spouses with dependent children under 18 for a two-year period or until the children reach 18 years of age to ease the transition of the surviving spouse and children to their new income levels.¹⁶

Surviving Children

Surviving children under the age of 18, or under the age of 23 if they are students, who are independent of the surviving spouse, are entitled to DIC in the following current monthly amounts: one child receives \$488, two children receive \$701, three children receive \$915 and more than three children receive \$915 with an additional \$174 for each additional child past three. If a child is permanently incapable of self-support before the age of 18, the child remains eligible for DIC past age 18.

Surviving Parents

Under current law, the maximum allowable DIC for surviving dependent parents is reduced for countable income above \$800, or \$1,000 if both parents are a married couple. Monthly benefits received by parents fluctuate by income.¹⁷ In the case of a sole surviving parent, the monthly DIC benefit ranges between \$5 and \$569. For parents who are still married to each other or have remarried other individuals, the range is between \$5 and \$387. For parents who are not living with each other or different spouses, the range is between \$5 and \$412.

Application Process

To claim DIC benefits, a survivor is to complete and submit to the local VA office VA Form 21-534a and Department of Defense (DD) Form 1300, Report of Casualty.¹⁸ The effective date of

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benefits in accordance with 38 U.S.C § 1303.

¹⁴ See rate tables at <http://www.vba.va.gov/bln/21/Rates/comp03.htm#BM03>.

¹⁵ See <http://www1.va.gov/opa/Is1/11.asp>.

¹⁶ 38 U.S.C § 1311(f).

¹⁷ To see income level rate charts, visit <http://www.vba.va.gov/BLN/21/Rates/comp04.htm#BMC3>.

¹⁸ To download VA Form 21-534a, go to this link, <http://www.vba.va.gov/survivors/21-534a.pdf>. For parental DIC, (continued...)

DIC entitlement is the first day of the month that the death occurred for claims filed within one year of the death. After one year, the DIC entitlement starts on the date the claim is received by the VA.¹⁹

Use of DIC in FY2008

In FY2008, 320,975 spouses, children, and parents of veterans received more than \$4.6 billion in DIC.²⁰ On average, each survivor received \$13,938 in annual compensation. Children recipients received an average of \$6,662 in annual compensation.²¹ **Table 1** shows DIC recipients by state and category for FY2008.

Table 1. DIC Recipients by State and Category for FY2008

State	Spouses	Children	Parents	Total
Alabama	8,342	706	200	9,248
Alaska	587	99	7	693
Arizona	7,226	545	61	7,832
Arkansas	5,303	434	114	5,851
California	27,796	2,117	334	30,247
Colorado	5,510	489	51	6,050
Connecticut	1,866	111	16	1,993
Delaware	887	88	10	985
District of Columbia	517	38	17	572
Florida	26,952	1,738	298	28,988
Georgia	13,296	1,346	258	14,900
Hawaii	1,641	160	22	1,823
Idaho	1,509	135	13	1,657
Illinois	5,844	553	110	6,507
Indiana	4,438	425	63	4,926
Iowa	2,244	221	22	2,487
Kansas	2,863	295	30	3,188
Kentucky	5,379	569	109	6,057
Louisiana	5,082	471	158	5,711
Maine	1,898	136	37	2,071
Maryland	5,407	509	63	5,979
Massachusetts	5,899	378	50	6,327
Michigan	6,711	678	107	7,496
Minnesota	3,918	282	50	4,250
Mississippi	4,194	400	147	4,741
Missouri	6,030	495	80	6,605
Montana	1,080	127	9	1,216
Nebraska	1,971	149	27	2,147
Nevada	2,596	197	6	2,799

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download VA Form 21-535 at <http://www.vba.va.gov/pubs/forms/21-535.pdf>. The Department of Defense Form 1300 is located at <http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd1300.pdf>.

¹⁹ 38 U.S.C § 5110.

²⁰ Department of Veterans Affairs, *Annual Benefits Report FY2008*, available at http://www.vba.va.gov/REPORTS/abr/2008_abr.pdf.

²¹ Ibid.

State	Spouses	Children	Parents	Total
New Hampshire	1,345	72	7	1,424
New Jersey	5,278	370	45	5,693
New Mexico	2,919	236	66	3,221
New York	10,493	893	218	11,604
North Carolina	13,643	1,452	320	15,415
North Dakota	577	74	10	661
Ohio	8,835	806	151	9,792
Oklahoma	7,355	585	87	8,027
Oregon	4,146	322	21	4,489
Pennsylvania	10,468	851	144	11,463
Puerto Rico	2,961	322	273	3,556
Rhode Island	1,115	93	11	1,219
South Carolina	7,111	632	157	7,900
South Dakota	950	89	11	1,050
Tennessee	8,171	772	181	9,124
Texas	29,619	2,708	442	32,769
Utah	1,501	214	16	1,731
Vermont	616	53	9	678
Virginia	12,262	1,248	132	13,642
Washington	8,759	694	55	9,508
West Virginia	2,717	251	43	3,011
Wisconsin	3,964	337	49	4,350
Wyoming	543	42	5	590
Territories & Other	8,641	1,009	203	9,853
U.S. Total	320,975	28,016	5,125	354,116

Source: Table prepared by the Congressional Research Service (CRS) using data from the Department of Veterans Affairs (VA).

Policy Issues Related to DIC

Several policy issues are associated with DIC, including the DIC offset of Survivor Benefit Plan (military retirement survivor) payments, often referred to as the “widow’s tax”; adequacy of the payments for survivors compared to other retirement systems’ payments to surviving spouses; remarriage age of 57; length of time for a totally disabled rating for non-service-connected deaths to qualify for DIC; and maximum DIC payment for parents based on income levels that have not been adjusted for inflation. Related legislation has been introduced in the 111th Congress.

Although none of the bills introduced have seen legislative action, an amendment (S.Amdt. 1515) to S. 1390 was adopted on the Senate floor, which would eliminate the DIC/SBP offset (described below).

DIC and SBP Offset

The Survivor Benefit Plan (SBP) is a form of insurance provided by the Department of Defense to military retirees that does not require service-connected death or disability for survivors to receive payments.²² A military retiree elects to have lower monthly retirement pay—the insurance premium for SBP is taken from retirement pay—to ensure that his or her survivors can receive a

²² For more information on the Survivor Benefit Plan, see CRS Report RL32769, *Military Death Benefits: Status and Proposals*, by David F. Burrelli and Jennifer R. Corwell.

monthly payment after his or her death. However, this income is taxable, while DIC is tax-free. If the survivor of a military retiree is also eligible for and receives DIC, the SBP payment is reduced dollar for dollar by the DIC amount (but not below zero).

DIC Percentage of Income Compared with Other Pension Programs

There is a disparity between the percentage of income a DIC recipient is paid and the percentages given to recipients of retirement and pension plans. Currently, an eligible surviving spouse would receive a basic DIC benefit of \$1,154 monthly. This is 40.8% of the basic compensation rate for a veteran with a spouse receiving disability compensation at the 100% disabled rating. This has called into question the adequacy of DIC payments.

Private pension plans are required to pay 50% of their benefit to surviving spouses, but retirees in some plans may elect to give their surviving spouses a larger percentage. As a result of the variance in pension plans, benefits, and survivor options, it is difficult to discern what the average pension benefit for a surviving spouse in the private sector might be. SBP recipients receive 55% of the military retiree's retirement pay.²³ Federal employee pension plans provide 55% of retirement pay, or 50% of retirement pay along with an initial lump-sum payment, depending on the plan.²⁴

Low-income elderly or disabled veterans may be eligible for the Improved Disability Pension. In the event of their death, the surviving spouse may be eligible for the Improved Death Pension Benefit. The surviving spouse would receive, under the Improved Death Pension, about 51.2% of the veteran's Improved Disability Pension benefit.²⁵

As a percentage of 100% disability compensation, DIC is below the 50% or more level for survivors associated with other retirement or pension benefits. However, unlike pension benefits, DIC is not structured as a percentage of the disability compensation received by the veteran. Under the current DIC structure, the surviving spouse of a veteran who died with a disability rating of less than 70% would receive more in DIC than the veteran received in disability compensation while alive (based on the current disability compensation rates for a veteran with a spouse). If DIC were 50% of the disability compensation received by the veteran, a survivor would receive a basic monthly benefit (based on the veteran's disability rating) ranging from \$62 to \$1,412.²⁶ This range exists because a veteran could die from a service-connected condition that is rated at less than 100%. As a result, the surviving spouse could receive more from DIC (\$1,154) than the veteran received from disability compensation.

DIC Remarriage Age

Until 2003, a surviving spouse could not remarry and continue to receive DIC benefits. That changed with the enactment of the Veterans Benefits Act of 2003 (P.L. 108-183), which allowed

²³ For additional information regarding veterans pension programs, see CRS Report RS22804, *Veterans' Benefits: Pension Benefit Programs*, by Christine Scott and Carol D. Davis.

²⁴ For more information on survivor benefits for federal employees, see CRS Report RS21029, *Survivor Benefits for Families of Civilian Federal Employees and Retirees*, by Patrick Purcell.

²⁵ If both pension payments were received at their maximum rates (which would be dependent on income levels).

²⁶ Fifty percent of the disability compensation for a veteran with a spouse.

a surviving spouse at age 57 or older to remarry and keep DIC benefits. For the military Survivor Benefit Plan and for federal employees, the remarriage age is 55 for retaining benefits, and for Social Security beneficiaries, the remarriage age is 60. The difference in ages for remarriage means that a remarried surviving spouse may not be able to keep all of his or her benefits if he or she remarries.

Disability Requirement for Non-Service-Connected Deaths

As stated earlier (see “Eligibility Requirements” section), if a veteran’s death was not service-connected, the veteran must have been receiving, or been eligible to receive, disability compensation as 100% disabled for 10 years or more prior to death to enable a survivor to be eligible for DIC. Some totally disabled veterans have expressed concern that their surviving spouses would not receive a benefit if they die from non-service-connected causes if they have not been totally disabled for at least 10 years. The 10-year disability requirement for non-service-connected deaths can be viewed as a measure of the survivor’s dependence on the veteran’s disability compensation. This view assumes that the longer the veteran was disabled, the more dependent the survivors were on the veteran’s disability compensation as a replacement of the veteran’s earnings.

Maximum Benefit for Dependent Parents

For survivors, income is not a factor in DIC eligibility unless the survivor is a dependent parent. The maximum DIC amount payable to parents is only for parents below a stationary income level: \$800 for a single parent and \$1,000 for a married couple. These amounts were enacted into law in 1968 and unlike other income levels related to benefits, they have not been adjusted for inflation. The \$800 limitation in 1968 is equivalent to \$4,958 in 2009. This means that dependent parents over time may see reductions in DIC as their incomes increase due to cost of living adjustments in their other income, because the \$800 and \$1,000 income limitations for DIC are not adjusted for inflation.

Legislative History

Dependency and indemnity compensation (DIC) has been paid in some form to survivors since the Revolutionary War. At that time, women and children survivors of officers received a seven-year pension amounting to half of the officer’s entitled pay (according to a 1780 act of the Continental Congress).²⁷

During the Civil War, survivor compensation was expanded to cover all servicemembers at a rate that would be payable to totally disabled veterans.²⁸ The Civil War also led to other changes to survivor compensation, especially for survivors of servicemembers with service-connected disabilities. They were covered under the Act of July 14, 1862, which was referred to as General Law and amended various times in the 19th century.

²⁷ Omar N. Bradley, Clarence G. Adamy, and William J. Donovan, et al., *Veterans' Benefits in the United States: A Report to President by the President's Commission on Veterans' Pensions*, The Bradley Commission, Washington DC, April 1956. (Hereafter referred to as the Bradley Report.)

²⁸ Ibid.

In 1917, Congress passed the War Risk Insurance Act to eliminate the need for non-service pensions and highlighted that service-connected payments for death and disability were compensation payments.²⁹ The act changed the system to meet the current needs of World War I veterans and their survivors and eliminated the pay discrepancy between officers and soldiers.³⁰

The Servicemen's Indemnity Act of 1951 replaced this life insurance system with a new system where the servicemembers did not contribute to the insurance program, but the government provided monthly payments to eligible survivors of \$120 with a 2.25% increase per year until a \$10,000 insurance maximum was reached.³¹ Potentially eligible survivors included spouses, children, parents, and siblings.

Because legislation had been written in response to need, dependency and indemnity compensation was unorganized and administered by four different administrations by the mid-1950s, and congressional and executive committees were formed to make the issuance of compensation more streamlined and manageable.³² Death compensation was set up similar to the way it is now by the time the final report of the President's Commission on Veterans' Pensions, *Veterans' Benefits in the United States: Report to the President by the President's Commission of Veterans Pensions* (hereafter referred to as the Bradley Report) was written in 1956.³³ Death compensation was provided to survivors (except for dependent parents) regardless of income. The rate of compensation depended on whether the veteran served in peacetime or wartime.

In 1969, after review of the Bradley Report, recommendations from a commission headed by Robert M. McCurdy in 1967,³⁴ and extensive testimony from several other federal administrations and veterans service organizations, Congress devised a different, more equitable system for survivor compensation that gave fixed rates to each pay grade. The base rate was adjusted for a cost-of-living increase to reflect changes in the cost-of-living since the last base rate had been determined in 1956, 13 years earlier.³⁵ In 1969, years of service were no longer a factor in determining DIC.³⁶ There were no subsequent changes of significance to DIC legislation until 1993, when the rate tables for surviving spouses were eliminated and one flat monthly rate was reinstated.³⁷ In 2003, surviving spouses who remarried after reaching the age of 57 were able to retain DIC.³⁸

²⁹ P.L. 65-105.

³⁰ Ibid.

³¹ P.L. 82-23.

³² Sen. Bob Graham, "Honor the DIC commitment," remarks in the Senate, *Congressional Record*, vol. 137 (November 12, 1991), pp. S16332-S16338.

³³ Bradley Report (Washington DC: April 1956), pp. 33-52.

³⁴ Sen. Bob Graham, "Honor the DIC commitment," remarks in the Senate, *Congressional Record*, vol. 137 (November 12, 1991), pp. 31116-31123.

³⁵ Ibid.

³⁶ Ibid.

³⁷ P.L. 102-568.

³⁸ P.L. 108-183.

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