

# **Estate Planning and VA Survivor Benefits**



**Presented by the Alabama Department of  
Veterans Affairs**

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## **I. Veterans Death Benefits**

### **Introduction**

One of the most difficult tasks a survivor faces after the death of the veteran is completing the numerous claims forms for VA survivors' benefits. To help ease the burden and to ensure that you will have the necessary details for filing a claim, the State of Alabama Department of Veterans Affairs has identified the documents needed and where to go for assistance.

### **Important Records**

Below is a list of important documents that the family will need to file for benefits. All veterans should put these documents in a safe place and ensure that all family members know the location of these documents.

1. The veteran's discharge certificate (DD214) or WW II equivalent
2. VA documents, if any, indicating a VA claim number (after June 1974 the veteran's social security number is assigned as the claim number)
3. A copy of all marriage certificates and divorce decrees (if any)
4. Family insurance policies including beneficiary designation
5. A copy of the family will (not required for VA benefits)
6. Location of safety deposit boxes (not required by VA)

### **Eligibility for Burial in a VA National Cemetery**

Veterans discharged from active duty under conditions other than dishonorable and service members who die while on active duty, active duty for training, or inactive duty training, as well as spouses and dependent children of Veterans and active duty service-members, may be eligible for VA burial and memorial benefits. The Veteran does not have to die before a spouse or dependent child for them to be eligible.

With certain exceptions, active duty service beginning after Sept. 7, 1980, as an enlisted person, and after Oct. 16, 1981, as an officer, must be for a minimum of 24 consecutive months or the full period of active duty (as in the case of reservists or National Guard members called to active duty for a limited duration). Active duty for training, by itself, while serving in the reserves or National Guard, is not sufficient to confer eligibility. Reservists and National Guard members, as

well as their spouses and dependent children, are eligible if they were entitled to retired pay at the time of death, or would have been upon reaching requisite age.

VA's National Cemetery Scheduling Office or local national cemetery directors verify eligibility for burial. A copy of the Veteran's discharge document that specifies the period(s) of active duty and character of discharge is usually sufficient to determine eligibility. In some instances, a copy of the deceased's death certificate and proof of relationship to the Veteran (for eligible family members) may be required.

Under Section 2411 of Title 38 of the United States Code, certain otherwise eligible individuals found to have committed federal or state capital crimes are barred from burial or memorialization in a VA national cemetery, and from receipt of government-furnished headstones, markers, burial flags, and Presidential Memorial Certificates.

Veterans and other claimants for VA burial benefits have the right to appeal decisions made by VA regarding eligibility for national cemetery burial or other memorial benefits. Readers with questions may contact the nearest national cemetery, County Veterans Service Officer, call 1-800-827-1000, or visit the US Department of Veterans Affairs Web site at [www.cem.va.gov/](http://www.cem.va.gov/).

### **Burial in VA National Cemeteries**

Burial in a VA national cemetery is available for eligible Veterans, their spouses and dependents at no cost to the family and includes the gravesite, grave-liner, opening and closing of the grave, a headstone or marker, and perpetual care as part of a national shrine. For Veterans, benefits also include a burial flag (with case for active duty) and military funeral honors. Family members and other loved ones of deceased Veterans may request Presidential Memorial Certificates.

The VA operates 131 national cemeteries, of which 71 are open for new casketed interments and 19 are open to accept only cremated remains. Burial options are limited to those available at a specific cemetery but may include in-ground casket, or interment of cremated remains in a columbarium, in ground or in a scatter garden. Contact the national cemetery directly, or visit the USDVA Web site at [www.cem.va.gov/](http://www.cem.va.gov/) to determine if a particular cemetery is open for new burials, and which other options are available.

The funeral director or the next of kin makes interment arrangements by contacting the National Cemetery Scheduling Office or national cemetery in which burial is desired. The VA normally does not conduct burials on weekends. Gravesites cannot be reserved; however, the VA will honor reservations made under previous programs.

**Note:** Surviving spouses of Veterans who died on or after Jan. 1, 2000, do not lose eligibility for burial in a national cemetery if they remarry. Burial of dependent children is limited to unmarried

children under 21 years of age, or under 23 years of age if a full-time student at an approved educational institution. Unmarried adult children who become physically or mentally disabled and incapable of self-support before age 21, or age 23 if a full-time student, also are eligible for burial.

**Headstones and Markers** - Veterans, active duty service members, and retired Reservists and National Guard service members, are eligible for an inscribed headstone or marker for their grave at any cemetery – national, State Veterans, or private. The VA will deliver a headstone or marker at no cost, anywhere in the world. For eligible Veterans whose deaths occurred on or after Nov. 1, 1990, the VA may provide a government headstone or marker even if the grave is already marked with a private one. Spouses and dependent children are eligible for a government headstone or marker only if they are buried in a national or State Veterans cemetery.

Flat markers are available in bronze, granite or marble. Upright headstones come in granite or marble. In national cemeteries, the style chosen will be consistent with existing monuments at the place of burial. Niche markers are available to mark columbaria used for internment of cremated remains.

Headstones and markers previously provided by the government may be replaced at the government's expense if badly deteriorated, illegible, vandalized, or stolen. To check the status of a claim for a headstone or marker for a national or State Veterans cemetery, call the cemetery. To check the status of one being placed in a private cemetery, call 1-800-697-6947.

**Inscription** - Headstones and markers must be inscribed with the name of the deceased, branch of service, and year of birth and death. They also may be inscribed with other optional information, including an authorized emblem of belief and, space permitting, additional text including military rank; war service such as "World War II;" complete dates of birth and death; military awards; military organizations; civilian or Veteran affiliations; and personalized words of endearment.

**Private Cemeteries** - To submit a claim for a headstone or marker for a private cemetery, mail a completed VA Form 40-1330 (available at [www.va.gov/vaforms/va/pdf/VA40-1330.pdf](http://www.va.gov/vaforms/va/pdf/VA40-1330.pdf)), Application for Standard Government Headstone or Marker, and a copy of the Veteran's military discharge document to Memorial Programs Service (41A1), Department of Veterans Affairs, 5109 Russell Rd., Quantico, VA 22134-3903. The form and supporting documents may also be faxed toll free to 1-800-455-7143.

Before ordering, check with the cemetery to ensure that the government-furnished headstone or marker will be accepted. All installation fees are the responsibility of the applicant.

**“In Memory Of” Markers** – The VA provides memorial headstones and markers with “In Memory Of” as the first line of inscription, to memorialize those whose remains have not been recovered or identified, were buried at sea, donated to science or cremated and scattered. Eligibility is the same as for regular headstones and markers. There is no fee when the “In Memory Of” marker is placed in a national cemetery. All installation fees are the responsibility of the applicant.

**Medallions in Lieu of Government Headstone/Marker** - Public Law 110-157 enacted December 26, 2007, expanded the VA authority to provide a medallion instead of a headstone or marker for Veterans’ graves in private cemeteries when the grave is already marked with a privately purchased headstone or marker. If requested, the medallion will be furnished in lieu of a traditional government headstone or marker for veterans that died on or after November 1, 1990, and whose grave is marked with a privately purchased headstone or marker. Claimants will have the option to apply for either a traditional headstone or marker to place on the grave, or a medallion to affix to a privately purchased headstone or marker. Current information regarding medallion availability is located at [www.cem.va.gov](http://www.cem.va.gov).

### **Burial Flags**

The VA will furnish a U.S. burial flag to memorialize:

1. Veterans who served during wartime or after Jan. 31, 1955.
2. Veterans who were entitled to retired pay for service in the Reserve or National Guard, or would have been entitled if over age 60.
3. Members or former members of the Selected Reserve who served their initial obligation, or were discharged for a disability incurred or aggravated in the line of duty, or died while a member of the Selected Reserve.

After the funeral service, the flag may be given to the next of kin, close friend, or associate of the deceased veteran. Burial flags may be obtained at VA regional offices, local funeral homes, national cemeteries, and most local post offices. Overseas, American flags can be obtained from U.S. Embassies or U.S. Consulates. For more information, please contact your Local County Veteran Affairs Office for assistance.

**Reimbursement of Burial Expenses:** The VA will pay a burial allowance (amount established by Congress) if the Veteran’s death is service-connected. In such cases, the person who bore the Veteran’s burial expenses may claim reimbursement from the VA.

In some cases, the VA will pay the cost of transporting the remains of a Veteran whose death was service-connected to the nearest national cemetery with available gravesites. There is no time limit for filing reimbursement claims in service-connected death cases.

**Burial Allowance:** The VA will pay a burial and funeral allowance (amount established by Congress) for Veterans who, at time of death, were entitled to receive pension or compensation or would have been entitled if they were not receiving military retirement pay. Eligibility also may be established when death occurs in a VA facility, a VA-contracted nursing home or a State Veterans nursing home. In cases in which the Veteran's death was not service-connected, claims must be filed within two years after burial or cremation.

**Plot Allowance:** The VA will pay a plot allowance (amount established by Congress) when a Veteran is buried in a cemetery not under U.S. government jurisdiction if:

- the Veteran was discharged from active duty because of disability incurred or aggravated in the line of duty;
- the Veteran was receiving compensation or pension
- or would have been if the Veteran was not receiving military retired pay; or the Veteran died in a VA facility.

The plot allowance may be paid to the state for the cost of a plot or interment in a state-owned cemetery reserved solely for Veteran burials if the Veteran is buried without charge. Burial expenses paid by the deceased's employer or a state agency will not be reimbursed.

**Military Funeral Honors:** Upon request, the Department of Defense (DoD) will provide military funeral honors consisting of folding and presentation of the United States flag and the playing of "Taps." A funeral honors detail consists of two or more uniformed members of the armed forces, with at least one member from the deceased's branch of service.

Family members should inform their funeral director if they want military funeral honors. DoD maintains a toll-free number (1-877-MIL-HONR) for use by funeral directors only to request honors. VA can help arrange honors for burials at VA national cemeteries. Veteran's service organizations or volunteer groups may help provide honors. For more information, visit: [www.militaryfuneralhonors.osd.mil/](http://www.militaryfuneralhonors.osd.mil/).

**Presidential Memorial Certificates** are issued upon request to recognize the United States military service of honorably discharged deceased Veterans. Next of kin, relatives and other loved ones may apply for a certificate by mailing, e-mailing, or faxing a completed and signed

VA Form 40-0247 along with a copy of the Veteran's military discharge documents or proof of honorable military service.

The form and eligibility requirements can be found at [www.cem.va.gov](http://www.cem.va.gov). All requests must be sent with supporting military documents or proof of honorable military service. Completed and signed documents along with supporting military documents can be submitted as follows:

- By US Mail to the Department of Veterans Affairs, Presidential Memorial Certificates Program (41A1C), 5109 Russell Road, Quantico VA 22134.
- Faxed to USDVA toll free fax service at 1-800-455-7143.
- Scanned and attached to an e-mail addressed to: [pmc@va.gov](mailto:pmc@va.gov). E-mail requests must have forms and documents attached.

### **Burial at Sea**

Burial at Sea is a means of final disposition of remains that is performed on United States Navy vessels. The committal ceremony is performed while the ship is deployed. Therefore, family members are not allowed to be present. The commanding officer of the ship assigned to perform the ceremony will notify the family of the date, time, and longitude and latitude once the committal service has been completed.

The following are eligible for the program: (1) uniformed services active duty members; (2) honorably discharged retirees and veterans; (3) U.S. civilian Military Sealift Command marine personnel; and (4) dependent family members of uniformed services active duty personnel, retirees, and veterans.

Upon the death of an eligible individual for whom Burial at Sea is requested, the person authorized to direct disposition of the remains should contact the United States Navy Mortuary Affairs office toll-free at 1-866-787-0081. The US Department of Veterans Affairs National Cemetery Administration cannot provide burial at sea.

### **VA Life Insurance Program**

To file a death claim for VA Life Insurance, please contact your local County Veteran Affairs Office for assistance.

## II. Death Pension Benefits

The VA provides pensions to low-income surviving spouses and unmarried children of deceased veterans with wartime service.

**Eligibility:** To be eligible, spouses must not have remarried and children must be under age 18, or under age 23 if attending a VA-approved school, or have become permanently incapable of self-support because of disability before age 18.

The veteran must have been discharged under conditions other than dishonorable and must have had 90 days or more of active military service, at least one day of which was during a period of war, or a service-connected disability justifying discharge. Longer periods of service may be required for veterans who entered active duty on or after Sept. 8, 1980, or Oct. 16, 1981, if an officer. If the veteran died in service, but not in the line of duty, the death pension may be payable if the veteran completed at least two years of honorable service.

Children who become incapable of self-support because of a disability before age 18 may be eligible for the death pension as long as the condition exists, unless the child marries or the child's income exceeds the applicable limit.

A surviving spouse may be entitled to a higher income limit if living in a nursing home, in need of the aid and attendance of another person, or permanently housebound.

**Payment:** The death pension provides a monthly payment to bring an eligible person's income to a level established by law. The payment is reduced by the annual income from other sources such as Social Security. The payment may be increased if the recipient has unreimbursed medical expenses that can be deducted from countable income.

## III. Dependency and Indemnity Compensation Benefits – DIC

For a survivor to be eligible for Dependency and Indemnity Compensation (DIC), the veteran's death must have resulted from one of the following causes:

1. A disease or injury incurred or aggravated in the line of duty while on active duty or active duty for training.
2. An injury, heart attack, cardiac arrest, or stroke incurred or aggravated in the line of duty while on inactive duty for training.
3. A service-connected disability or a condition directly related to a service-connected disability.

DIC also may be paid to certain survivors of veterans who were totally disabled from service-connected conditions at the time of death, even though their service-connected disabilities did not cause their deaths. The survivor qualifies if the veteran was:

1. Continuously rated totally disabled for a period of 10 years immediately preceding death; or
2. Continuously rated totally disabled from the date of military discharge and for at least 5 years immediately preceding death ; or
3. A former POW who died after Sept. 30, 1999, and who was continuously rated totally disabled for a period of at least one-year immediately preceding death.

Payments will be offset by any amount received from judicial proceedings brought on by the veteran's death. The veteran's discharge must have been under conditions other than dishonorable.

**Payments for Deaths After Jan. 1, 1993:** Surviving spouses of veterans who died on or after Jan. 1, 1993, receive a basic rate, plus additional payments for dependent children, for the aid and attendance of another person if they are patients in a nursing home or require the regular assistance of another person, or if they are permanently housebound.

#### **IV. State Veterans Homes**

The State of Alabama offers skilled nursing care to elderly veterans at a low cost to the veteran and their family. The Federal VA and State of Alabama make this possible through per diem assistance. The care is provided in three state veterans homes throughout the state: Bill Nichols State Veterans Home in Alexander City; Floyd E. "Tut" Fann State Veterans Home in Huntsville; and William F. Green State Veterans Home in Bay Minette. A fourth home will be added to the program that will also include a Domiciliary/Assisted Living option in addition to skilled nursing care. The new facility will be called the Col. Robert L. Howard State Veterans Home in Pell City and is scheduled to open in 2012.

For more information about the State Veterans Home Program, please contact your local County Veteran Service Officer.