

DIC DEATH PENSION – ELIGIBILITY WHEN DEATH IS CAUSED BY MILITARY SERVICE

A deceased veteran's surviving spouse, children, and parents are eligible for Dependency and Indemnity Compensation (DIC) when a veteran dies "from a service-connected or compensable disability". (38 U.S.C. § 1310.)

Determining whether or not a veteran "died from" a certain condition can be difficult. In general, if a disability/disease/injury was considered to be the principal cause, or one of the contributory causes, of the veteran's death and that disability/disease/injury qualifies as service-connected, the survivor will be entitled to DIC benefits. "The service-connected disability will be considered as the principal or primary cause of death when that disability, singly or jointly with some other condition, was the immediate or underlying cause of death or was etiologically related to the death." (38 C.F.R. § 3.312(b).)

Service-connection for the disease/injury/condition that caused the veteran's death need not have been established by the VA at the time of the veteran's death. The rules and procedures for establishing service-connection for a veteran's death are the same as those for a living veteran, and can be applied posthumously, with due consideration of the finality of the evidence in a death claim. (38 U.S.C. § 1310(a).)

For veterans who die in service, the VA generally concludes that the death was service-connected. However, if the veteran died as 1) the result of a suicide, or 2) from a disease that occurred during the initial six months of active service, or 3) it is reasonably likely that the death was due to misconduct by the veteran, the VA will issue a formal rating decision to determine whether the death is service-connected.

DIC is also payable as if the death were service-connected if the veteran dies as a result of VA examination, hospital care, medical or surgical treatment, Vocational Rehabilitation, or, since November 1, 2001, a program of Compensated Work Therapy under 38 U.S.C. § 1718; or if a disability arising from such circumstances either directly causes, or contributes substantially to and materially hastens, the veteran's death. In this case, however, DIC is the only benefit available; there are no ancillary benefits such as Loan Guaranty, healthcare coverage, or education assistance. Again, the rules and procedures for establishing a qualifying compensable event are similar to those for a living veteran. (38 U.S.C. § 1151.)

