



## FORT SILL LEGAL ASSISTANCE



### SURVIVOR BENEFITS

Dealing with the death of a family member in the military is never easy, but surviving family members are entitled to certain benefits that can help ease financial difficulties. The Casualty Assistance Office is the primary source of information for surviving family members. The Casualty Assistance Office is located the Welcome Center (Building 4700) in Room Suite 143N (1st Floor).

This fact sheet is only a summary of the benefits available to surviving Family Members and cannot replace a thorough review by a Casualty Assistance Officer. Questions regarding the matters in this fact sheet should be discussed with a Casualty Assistance Officer and possibly a Legal Assistance Attorney or other legal counsel.

#### Common Survivor Benefits Questions

##### What are Survivor Benefits?

Survivor Benefits are money and other assistance paid to eligible beneficiaries of deceased Servicemembers and retirees.

##### Who is an eligible beneficiary?

Beneficiaries are those persons who are entitled, either as a result of a prior election by the Servicemember or by operation of law, to receive certain death benefits from the Servicemember.

##### Who can help me receive benefits?

There are resources available to all survivors. You should start by contacting the Benefits Coordinator in the Casualty Assistance Office at (580) 442-4547. If you still have questions there are resources available through the local VA office, the Legal Assistance Office, as well as online.

This fact sheet addresses benefits available to family members when the death of a Servicemember is the result of a line of duty casualty.

##### Survivor Benefit Plan (SBP)

The Survivor Benefit Plan (SBP) provides a continuous monthly income to certain eligible surviving dependents. Active duty pay and allowances stop when a Soldier dies. SBP pays the Soldier's eligible survivors an inflation-adjusted monthly income for life as long as the survivor remains eligible. SBP payments are equal to fifty-five percent of what a member's retirement pay would have been had he or she been retired at 100 percent disability. The SBP annuity is reduced by the amount of payments provided under the Dependency and Indemnity Compensation program (see DIC below). Spouses may request "child only" SBP benefits. This option is helpful because the child-only SBP is not reduced by the amount of DIC awarded. SBP payments are subject to federal income taxes, although DIC payments are not. If the spouse remarries before age fifty-five, the SBP annuity is suspended, but can be reinstated if the remarriage ends by death or divorce. If remarriage occurs at age fifty-five or older, the annuity continues uninterrupted for the duration of the spouse's life.

## **Death Gratuity**

The death gratuity is a lump sum payment made by the Department of Defense to the survivors or other individuals identified by the Servicemember prior to his/her death while on active duty, active duty for training, inactive duty for training, or within 120 days after release from active duty if the death is due to a service-related disability. The amount of the death gratuity is \$100,000.00 and is tax exempt. The death gratuity will normally be paid to the eligible beneficiary(ies) within seventy-two hours of notification.

## **Pay and Allowances**

Any pay or allowances due to the Servicemember at the time of death will be paid to the designated beneficiary or a legal representative. Normally, pay and allowances owed to the deceased Servicemember will be limited to money earned during the month of death or since the last pay day. Servicemembers have the right to name any person as beneficiary for money remaining due at time of death. In the absence of the Servicemember's written instructions, money owed will be paid to survivors in the following order of preference: (1) spouse; (2) children in equal shares; (3) parents; (4) duly appointed legal representative of the estate.

## **Other Benefits**

### ***Department of Defense Domestic Dependent Elementary and Secondary Schools (DDESS)***

Effective 14 May 2009, dependents of fallen Servicemembers may continue in DDESS schools without limitations, neither on their physical residence nor on school transition points, until they graduate or until they relocate to another school system.

### ***Healthcare, Commissary and Exchange Privileges***

The death of your loved one does not end your right to certain Service benefits and privileges. You may use the base theater and some other Morale, Welfare, and Recreation (MWR) facilities. You are also eligible to continue to receive TRICARE benefits under TRICARE Prime at the active duty rate for three years at no cost. After three years the rate changes to the retiree family member rate which will require you to pay a premium. You are also eligible to continue shopping at the exchange and commissary indefinitely unless you remarry. Unmarried children of the deceased Servicemember may use these privileges at no cost until they are twenty-one, or twenty-three if enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education.

### ***TRICARE Dental Program Survivor Benefit***

When a military sponsor dies while on active duty for more than 30 consecutive days, a surviving spouse enrolled in the TRICARE Dental Program (TDP) will continue to receive TDP benefits for three years from

the month following the sponsor's death. Unmarried children of the deceased Servicemember may use the privileges at no cost until they are twenty-one or twenty-three if enrolled in a full-time course of study in a secondary school or in a full-time course of study in an institution of higher education.

### ***Housing and Moving Expenses***

The Department of Defense makes special housing benefit provisions for spouses and children of Soldiers who die while serving on active duty. Eligible family members residing on base may continue to reside in base quarters for up to 365 days after the Soldier's death. Eligible family members not living in government housing receive a housing allowance for up to 365 days after the Soldier's death. You are also authorized one relocation move at government expense. The movement of household goods must be completed within three years following the death of the Servicemember.

### ***Legal Assistance***

Should you need legal advice on benefits and entitlements, insurance, taxation, or other matters, military legal assistance may be available to you.

### ***ID Card***

In order to use the services you are entitled to, you must identify yourself as the dependent of a deceased service member. You will need a new ID card.

## **Veterans Administration Benefits:**

### ***Servicemembers' Group Life Insurance (SGLI)***

SGLI is a program of low-cost group life insurance for Servicemembers on active duty, Ready Reservists, members of the National Guard. Upon the death of the Servicemember, the SGLI payment is made by the Office of Servicemembers' Group Life Insurance (OSGLI) to the Servicemember's beneficiary in either a lump sum payment or in thirty-six equal monthly installments as specified by the Servicemember on DD Form 93. Eligible beneficiaries may elect to change the lump sum payment to thirty-six equal monthly payments; however, they cannot convert the thirty-six equal monthly payments to a lump sum payment.

### ***Dependency and Indemnity Compensation (DIC)***

This benefit is payable for the life of the spouse, provided the spouse does not remarry before the age of fifty-seven. However, should a remarriage end, DIC benefits can be reinstated. Income from other sources does not affect eligibility. The only requirements are proof of relationship to the deceased Servicemember and that the Servicemember's death was service-connected. The deceased Soldier must have died from: (1) a disease or injury incurred or aggravated while on active duty or active duty

for training; (2) an injury incurred or aggravated in line of duty while on inactive duty training. The death cannot be the result of the Soldier's willful misconduct. If the Soldier's death is determined to be self-inflicted, surviving family member benefits may be modified. If there is no surviving eligible spouse, DIC payments may be payable for the benefit of eligible children of the deceased Servicemember.

### ***Dependent's Educational Assistance***

Surviving spouses are eligible for educational benefits for up to twenty years after the Servicemember's death. Children are normally eligible to use their educational benefits between the ages of 18 and 26. This benefit may be used to pursue an associate, bachelors, or graduate degree; courses leading to certification, technical, or vocational school; and apprenticeships and various other educational programs. Children over the age of 14 with physical or mental disabilities may receive benefits for special restorative training to lessen or overcome impairment.

### ***Burial and Memorial Benefits***

Soldiers who die while on active duty and veterans discharged under honorable conditions may be eligible for the following Department of Veterans Affairs (VA) burial benefits: (1) burial in a VA national cemetery; (2) government-furnished headstone or marker; (3) Presidential Memorial Certificate; (4) burial flag; and in some cases, (5) reimbursement of certain burial expenses. The surviving spouse, the children, siblings of the Servicemember, and the parents of both the Servicemember and surviving spouse are authorized to receive travel entitlements.

### ***Survivor Outreach Services***

This office provides a benefits coordinator to work with the Casualty Assistance Officer to ensure the surviving family members apply for all benefits. Financial counselors can also assist with investment education. Survivor Outreach Services also provides long-term support to help survivors prepare for a different lifestyle.

## **Social Security Benefits**

Monthly Social Security payments are paid to a spouse or a divorced spouse with children of the deceased Servicemember under the age of 16, or disabled children in their care who meet the eligibility requirements. Monthly payments are also paid to children under the age of 18 or 19 if they are full-time students, or older children who were disabled before the age of 18. The amount paid will be determined by the Social Security Administration. A lump sum death benefit of \$255 may be paid to the surviving spouse living with the Servicemember at the time of death. If there is no surviving spouse, the sum is paid to the child or children who are eligible for Social Security benefits for the month of death.

Soldiers or their family members with questions regarding Survivor Benefits should visit their local Casualty Assistance Office. Most, if not all, of the benefits have very specific meanings and limitations that could not be fully explored here. To determine how your

situation fits within the regulations after speaking to the Casualty Assistance Officer, you should seek legal advice. Legal Assistance Attorneys are trained in consumer, family, and estate matters and can assist in interpreting the provisions and application of law.

*Updated November 2022*

**This Information Paper provides only basic information and is not intended to serve as a substitute for personal consultation with a Legal Assistance Attorney. To schedule an appointment with a Legal Assistance Attorney, please contact the Legal Assistance Office at (580) 442-5058. The Fort Sill Legal Assistance Office is located on the 4th Floor of Building 4700 (Welcome Center) at 4700 Mow-Way Road, Fort Sill, Oklahoma 73503.**