

CHAPTER 35

**RETIRED SERVICEMAN'S FAMILY PROTECTION PLAN –
BENEFICIARIES**3501 ELIGIBLE BENEFICIARIES

Eligible beneficiaries for RSFPP annuities are:

350101. Spouse of the member on the date the member is retired or becomes entitled to retired pay, or, if the member was already retired or entitled to retired pay on November 1, 1953, the spouse on that date.

350102. Children of the member who:

A. Are unmarried and under 18 years of age.

B. Are more than 18 years of age, unmarried, and incapable of self-support because of being mentally defective or physically incapacitated, if that condition existed before they reached age 18.

C. Are at least 18 but under 23 years of age, and pursuing a full-time course of study or training (applies only to children of members who retired on or after November 1, 1968). This study may be in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (a child is considered to be pursuing a full-time course of study or training during an interval between school years that does not exceed 150 days if the child demonstrated to the satisfaction of the Secretary of the Military Department concerned (or designee) that the child has a bona fide intention of resuming or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after the interval). For the purpose of this subsection, a child who is at least 18 but less than 23 years of age, and is not pursuing a course of study or training, is considered an eligible beneficiary unless the member applies to the Secretary concerned to have such child considered not to be an eligible beneficiary.

D. Are legitimate or adopted children of the member, or step-children dependent upon the member for their support.

E. Are living on the date when the member is retired or becomes entitled to retired pay or, if the member was already retired or entitled to retired pay on November 1, 1953, living on that date.

F. Have been adopted by a third person before the parent-member's death. A child loses his or her eligibility for an annuity under the plan under this condition. However, the eligibility is not affected if the child is adopted by a third person after the parent-member's death.

3502 DESIGNATING BENEFICIARIES

350201. When submitting an election, the member must furnish the birth dates of the named beneficiaries as applicable to the option(s) elected to provide information for computing annuity costs.

350202. A member without dependents may designate beneficiaries when making an election; however, the designation is not effective unless he or she has eligible dependents at retirement.

350203. A member may have a different lawful spouse at the time of retirement from the lawful spouse at the time of election. The lawful spouse at the time of retirement is the spouse eligible for an annuity. Divorce of the member after retirement removes the former spouse as a prospective annuitant.

Example: The member's records were corrected in December 1955 to show retirement in 1952. The member divorced on November 4, 1955 and remarried November 12, 1955. Thus, the former spouse ceases to be an eligible annuitance. In addition, since the second spouse was not the spouse on November 1, 1953, she or he also is not an eligible beneficiary.

3503 SUBSTANTIATING EVIDENCE REGARDING DEPENDENCY AND AGE OF DEPENDENT

The age of the beneficiaries and/or dependents must be substantiated by birth certificates or other competent evidence. When conflicting statements on birth dates exist, the ones made in earlier life have less margin for error than those made in later years. Give earlier records more probative value in determining RSFPP costs.

350301. Proof of Spouse's and Children's Dates of Birth. Acceptable evidence may include one copy of any of the listed items in the sequence shown:

- A. Copy of birth certificate (primary evidence)
- B. Baptismal or other church records
- C. Hospital record of birth
- D. Sworn statement of attending doctor or midwife
- E. Certified abstract or photostat of baby book or family bible
- F. Affidavits from two persons knowing date of birth (Affiants' ages, relationship, and basis for stated facts must be given)
- G. Affidavit from either parent or member

H. Passport

I. School records

J. Census Report (**Note:** The Bureau of Census will furnish this information upon request of the widow or widower. This costs a minimum of \$4.00 and takes about 4 to 6 weeks to obtain. Address request to:

US Department of Commerce
Bureau of the Census
Personal Census Service Branch
Pittsburg, KS 66762

K. Information obtained from the Immigration and Naturalization Service may be acceptable as primary evidence for establishing a date of birth.

350302. Proof of Parentage

A. Adopted Children. Member must furnish certified copy of the decree of adoption.

B. Stepchild. A statement, signed by the member, stating that the stepchild is "in fact" dependent upon the member for more than half of his or her support will suffice. This statement need not be attested to or notarized.

350303. Child Incapable of Self-Support. The member must submit a certificate by the attending physician or an appropriate official of a hospital or institution for a child 18 years of age or over and unmarried who is incapable of self-support because of mental defect or physical incapacity. This certificate must state the basis for the physician's or the hospital's or institution official's conclusion. Further, a physician or appropriate official of a hospital or institution must certify that such condition existed before the child's 18th birthday. This certificate will be required at least once every 2 years after the annuity becomes payable, except in a case where medical prognosis indicates that recovery is impossible.

3504 EVIDENCE OF MARRIAGE

Evidence of the legality of a marriage is required only when there are apparent discrepancies regarding previous marriages. In such cases, marriage certificates and/or evidence of dissolution of previous marriages are required.

3505 COMMON-LAW MARRIAGES

A common-law marriage has the same recognition as a ceremonial statutory marriage when the parties live in a state where the marriage is recognized. The status of common-law marriages can be changed by the state legislature or by court decisions. Refer all cases involving common-law marriage to the responsible DFAS Center legal office.