

# CHAPTER I SURVIVOR BENEFITS

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# SURVIVOR BENEFITS

## I. REFERENCES.

- A. Army Reg. 600-8-1, Army Casualty Operations/Assistance/Insurance (30 April 2007).
- B. Army Reg. 930-4, Army Emergency Relief (22 September 2008).
- C. DA Pamphlet 360-526, Once a Veteran (1 January 1992).
- D. SBP Made Easy—2005 edition (published by The Military Officers Association of America and made available to members for free), available at [http://www.moaa.org/pubs\\_infoex\\_sbpmead2.htm](http://www.moaa.org/pubs_infoex_sbpmead2.htm).
- E. Armed Forces Services Corporation, 2800 Shirlington Road, Suite #350, Arlington, VA 22206-3601. Information is available at <http://www.afsc-usa.com>.
- F. U.S. Army Human Resources Command, with information available at <http://www.armyg1.army.mil/rso/PreRetirement.asp>.
- G. U.S. Army Human Resources Command—Army Reserve, with information available at <https://www.hrc.army.mil/site/reserve/soldierservices/retirement>.
- H. My Army Benefits web page: <http://myarmybenefits.us.army.mil>.

## **II. THE RELEVANCE OF SURVIVOR BENEFITS.**

- A. What Are Survivor Benefits?
- B. Situations Requiring an Understanding of Survivor Benefits.
  - 1. Lifetime planning.
    - a. Insurance needs.
    - b. The Survivor Benefit Plan.
  - 2. Casualty assistance.

## SURVIVOR BENEFITS

<u>Monthly Payments</u>	<u>Lump Sum Payments</u>	<u>Other Benefits</u>
<b>DIC</b>	<b>SGLI</b>	<b>BURIAL REIMBURSEMENT</b>
<b>SBP</b>	<b>TRAUMATIC INJURY PROTECTION</b>	<b>RELOCATION</b>
<b>SOCIAL SECURITY</b>	<b>DEATH GRATUITY</b>	<b>MEDICAL CARE</b>
<b>DEA</b>	<b>SOC. SEC.</b>	<b>PX/COMMISSARY</b>
	<b>UNPAID PAY/ALLOWANCES</b>	<b>EMERGENCY \$</b>

**III. DEPENDENCY AND INDEMNITY COMPENSATION (DIC)**  
(38 U.S.C. §§ 1301-1322; 38 C.F.R. PART 3).

A. Conditions for Payment.

1. Active Army.

- a. Death on active duty, by service-connected injury or disease, and not due to member's willful misconduct. If death occurs on active duty, a presumption arises that death was service-connected.
- b. Death after active duty from service-connected causes, not due to member's willful misconduct.
- c. Death after active duty not due to service-connected causes and not due to member's willful misconduct if decedent held a total service-connected disability rating.

2. Reserve Component.

- a. "Active Duty" includes AD, ADT, and IDT. However, if death occurs in connection with IDT, only IDT deaths due to injury (not illness) are covered; and
- b. Periods of travel to and from AD, ADT, and qualifying IDT are included, but only if travel accomplished by most direct means.

3. "Service connection." See paragraph A.1. above.

4. Death or injury cannot be due to member's "willful misconduct."
  - a. Willful misconduct involves deliberate or intentional wrongdoing with knowledge of or wanton disregard of consequences.
  - b. Requires proximate cause to injury, disease, or death to prohibit payments.
5. The Department of Veterans Affairs makes the ultimate determinations on service-connection and "willful misconduct" for purposes of DIC. Appeal is to the Court of Veterans Appeals.

B. Beneficiaries.

1. DIC to widow(er).
  - a. Spouses must have continuously cohabited since date of marriage.
  - b. Any separation not due to fault of surviving spouse; temporary separations disregarded (38 C.F.R. §§ 3.52 and 3.53).
  - c. Fraudulent marriages. Generally, for soldiers who separate from active duty, subsequently marry, and then die under circumstances described in paragraphs A.1.b. and A.1.c. above, the marriage must:
    - (1) have begun within 15 years after separation from active duty;
    - (2) have existed for at least one year; or
    - (3) produced a child (38 C.F.R. § 3.54(c)).

- d. The eligibility of certain remarried surviving spouses can be reinstated for DIC upon termination of that marriage. 38 U.S.C. § 103 and 38 U.S.C. § 1311 (comments).
  - (1) The remarriage of the surviving spouse shall not bar DIC if the remarriage is terminated by death, divorce, or annulment unless it is determined the divorce or annulment was secured through fraud or collusion.
  - (2) If the surviving spouse ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person DIC as the surviving spouse shall not apply.
  - (3) The first month of eligibility for DIC will be the later of the month after the month the termination of such remarriage or the month of the cessation living with another person and holding himself or herself out openly to the public as that person's spouse.
- e. Surviving spouses who remarry on or after the date they reach age 57 do not lose their entitlement to DIC and to related home loan and education benefits. 38 U.S.C. § 103(d).
- f. For deaths after January 1, 1993, the spouse DIC monthly rate in 2010 is \$1,154. It is a flat monthly payment, independent of the pay grade of the veteran.
- g. For surviving spouses with children under the age of 18, there is an increased monthly payment of \$250 per month for two years following the date of death. 38 U.S.C. § 1311(f).

2. DIC to children.

- a. Children are broadly defined: Legitimate, adopted, stepchildren in household, or even illegitimate children (38 C.F.R. § 3.57).
- b. Must be unmarried and under age 18, or under age 23 if in school.

- c. Amounts payable (children in the custody of a surviving eligible spouse).
    - (1) Under age 18 - \$286 per child. 38 U.S.C. § 1311(b).
    - (2) Age 18 to under age 23 (in school) - \$286 per child unless child is receiving Chapter 35 benefits (Dependent's Educational Benefits).
    - (3) These are the amounts payable to all children when there is a surviving spouse entitled to DIC. Payment to “all” children of the deceased veteran will be at these amounts. This includes children in the custody of former spouses or children born out of wedlock. (BVA 00-09216)
  - d. Amounts payable (if no surviving eligible spouse). DIC is calculated on the basis of the total number of eligible children.
    - (1) One child - \$488.
    - (2) Two children - \$701.
    - (3) Three children - \$915.
    - (4) Each additional child adds \$174.
3. DIC to parents (38 U.S.C. § 1315).
- a. Must have been dependent on deceased.
  - b. Parent(s) must be below income ceiling.
  - c. Amounts paid based on number of parents surviving.

C. Tax Consequences.



1. Not includable in decedent's gross estate.
2. Not taxable income to the recipient.

D. Application.

1. Apply to VA within 12 months to receive full payment from date of death (VA Form 21-534a, Application for DIC).
2. If application is received by VA more than 12 months after death, then payments are retroactive only to date of application (38 C.F.R. § 3.400(c)).

**IV. SURVIVOR BENEFIT PLAN (SBP) (10 U.S.C. §§ 1447-1460B).**

A. Eligibility to Participate.

1. Active duty members who die in the line of duty while on active duty. 10 U.S.C. § 1448(d).
2. Active duty retired.
3. Retired with 30% or greater disability.
4. Reservists eligible to retire (includes Army National Guard). (See Pub. L. No. 95-397, 1 Oct. 1978, extended coverage (RC-SBP) to Reserve soldiers completing 20 years, but not yet 60 years of age).

B. Eligible Beneficiaries for SBP and RC-SBP. 10 U.S.C. § 1448

1. Widow(er).
  - a. Defined. A spouse who survives a military retiree where the marriage either:
    - (1) was in effect when soldier became eligible to receive retirement pay,
    - (2) was in effect for at least one year immediately before retiree's death, or
    - (3) produced issue.
  - b. Remarriage before age 55 terminates the SBP annuity. Annuity may be reinstated if widow(er)'s second spouse dies or there is a divorce.
2. Former spouses.
3. Widow(er) and children. Full payment made to widow(er) as long as eligible; then full payment made to remaining eligible children as a group. Child eligibility:
  - a. Child under age 18 and unmarried.
  - b. Unmarried and under 22 if a full-time student.
  - c. Incapacitated before 18 or 22 - paid for life.
4. Children only. Usually elected when there is no eligible spouse.
5. Natural person with an insurable interest. 10 U.S.C. § 1448(b).
  - a. Any person with a financial interest in survival of the soldier.

- b. This option may not be elected by eligible participants who are married or have children.

C. Annuity Amount.

- 1. If soldier elects to participate in SBP, soldier then selects a "base" amount. The base amount can be anything from \$300 to the full amount of soldier's retired pay. The soldier also selects a beneficiary, which in most cases will be the spouse. The soldier has a premium deducted from each retirement check, and if the soldier dies before the spouse (or other eligible beneficiary), the beneficiary will begin receiving the monthly SBP payments.
- 2. Supplemental SBP (SSBP). Completed phased out as of 1 April 2008. All spouses still eligible to receive SBP are receiving 55% of the base amount.
- 3. Payment to all other beneficiaries (nonspouses) is at 55% of base for as long as they maintain eligibility.

D. Active Army Retiree Cost for SBP Coverage.

- 1. Determine desired base.
  - a. Minimum = \$300.
  - b. Maximum = full retired pay.
  - c. Any amount in between.
- 2. Determine type of coverage.
  - a. Widow(er)-only coverage.
    - (1) Formulas:

(a) 2.5% of first \$572, plus 10% of selected base over \$572 (OLD Formula); or

(b) Flat 6.5% rate of full base amount (NEW Formula).

(2) Example: Base Amount = \$2,000.00.

(a) Old Formula:

$$\begin{aligned} 2\ 1/2\% \text{ of } \$572 &= \$ 14.30 \\ 10\% \text{ of } \$1,428 &= \$ \underline{142.80} \\ \text{monthly cost} &= \$ 157.10 \end{aligned}$$

(b) New Formula:

$$\$2,000 \times 6.5\% = \$130.00$$

(3) The formula producing the least amount of cost will be used. In the example, the new formula produces the least cost. As a rule of thumb, if the base amount exceeds \$1,225 then the new formula is used; if the base amount is less than \$1,226, the old formula is used.

(4) For those entering the service on or after March 1, 1990, only the new formula (flat 6.5% of base) will be used.

b. Widow(er) plus children coverage.

(1) Cost of widow-only coverage, plus

(2) Actuarial amount that accounts for the difference in age between the retiree and the spouse and the age of youngest child.

c. Children-only coverage. Cost is based upon actuarial tables comparing the ages of the retiree and the youngest child. If married at time of election, then spouse must approve in writing.

- d. Former spouse coverage. For former spouse elections effected on or after 1 March 1986, costs and annuities are computed by the same formula used to compute costs and annuities for spouse coverage (10 U.S.C. § 1450(a)).
- e. Natural person with insurable interest (10 U.S.C. § 1448(b)(1)).
  - (1) By statute, this can only be elected if retiree has no spouse or dependent children (*Cf.* Comp. Gen. B-179465, 1974 WL 7682, which allowed this coverage for a child).
  - (2) Cost is 10% of base amount plus 5% of base amount for each five years beneficiary is younger than retiree (to a maximum of 40% of base amount).
- 3. Withholding stops if the beneficiary dies or otherwise loses eligibility. Must notify finance office.

E. Election.

- 1. Soldiers who are on active duty and have completed 20 years of active federal service are automatically enrolled in SBP without any affirmative election. Enrollment is at the full base amount of retired pay calculated as if the soldier had been retired on the day of death. Both widow(er) and children are covered (10 U.S.C. § 1448(d)(1) and (2)). “[T]he Secretary concerned may pay an annuity ... to the member’s dependent children... instead of paying an annuity to the surviving spouse..., if the Secretary concerned, in consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children ... instead of an annuity for the surviving spouse....” 10 U.S.C. § 1448(d)(2)(B).
- 2. Active Army Retirees: Soldiers who are about to retire and who do not want to participate in SBP must make an election not to participate before they retire.

3. Reserve Component: Retirement eligible reserve component members have 90 days to elect, with the period running from receipt of their letter of notification of eligibility for retired pay at age 60 ("20-year letter"). Reserve component members can defer the election until age 60. However, if they defer the election and die before making an election to participate in SBP, their beneficiaries will not benefit from SBP.
4. **An election of no coverage, less than full coverage for a widow(er), or children-only coverage requires written spousal concurrence. The spouse's signature must be witnessed.** 10 U.S.C. § 1448a(b)(1).
5. If a soldier is married at the time of retirement, the election made is generally irrevocable. However:
  - a. Can withdraw from the SBP between second and third anniversary from date of enrollment with concurrence of spouse and/or notification to former spouse. 10 U.S.C. § 1448a.
  - b. An eligible participant need not continue premium payments if beneficiaries are no longer eligible.
  - c. An eligible participant who has spousal coverage and loses spouse to death or divorce may withdraw after remarrying. Finance must be notified of intent to withdraw, however, before second marriage produces issue or reaches its first anniversary.
  - d. An eligible participant who becomes permanently and totally disabled may withdraw.
6. If beneficiary elected by the participant dies, the participant may elect a new beneficiary with an insurable interest within 180 days. This election must be done in writing. Premiums will be recalculated based upon the beneficiary selected. If the participant making the election dies within two years of the election, premiums will be paid back to the beneficiary. NDAA FY 2007, § 1448(b)(1)
7. An unmarried soldier who retires and later marries and/or acquires dependent children may opt into the plan at that time.

F. Reserve Component Cost for SBP (see Appendix A).

G. Spousal SBP Reduction Due to DIC Offset.

1. Any SBP or RC-SBP annuity to which surviving spouse is entitled will be reduced by amount of spousal DIC entitlement. The offset is mitigated, however, by a pro rata, lump sum return of SBP premiums paid (10 U.S.C. § 1450(e)). However, due to *Sharp v. U.S.* 580 F.3d 1234 (2009), surviving spouses who remarry after the age of 57 will not experience any offset between SBP and DIC. As a result of their full receipt of both SBP and DIC, they will not receive SSIA.
2. Any SBP or RC-SBP annuity payable to other beneficiaries (e.g., children) is not reduced, even if that beneficiary is also eligible for DIC.
3. Starting in FY09 an indemnity allowance will begin for those affected by the DIC offset. If the surviving spouse is receiving DIC and SBP the offset will continue, however the surviving spouse will receive additional compensation from \$50 in 2009 to \$310 in 2017.

H. SBP Tax Consequences (Federal).

1. Amounts withheld (premium payments) are not reportable as income for tax purposes (I.R.C. § 122).
2. Payments to beneficiaries are taxable as ordinary income.
3. The present value of the SBP annuity could be subject to federal estate tax in the retiree's estate.

I. Paid up coverage under SBP. (10 U.S.C.S. § 1436a).

1. 30 years of SBP premiums paid.
2. Over 70 years of age.
3. Effective date: 1 October 2008.

- J. SBP Tax Consequences (state). States could tax the payments as income to the beneficiary and tax the estate of the retiree who buys into the SBP program.
- K. Advantages of SBP (in comparison with commercial life insurance). There are basically three commercial insurance alternatives to SBP: annuities, term life insurance, and universal/whole life insurance. For various reasons, commercial insurers do not pitch annuities as replacements for SBP. Rather, they recommend term, whole life, or some combination of the two. Upon the retiree's death, the surviving spouse is supposed to collect the lump sum insurance proceeds, invest them, and draw a monthly check from the investment. There are a variety of factors that might favor SBP in such an analysis.
1. Government subsidized; no administrative costs or commissions. Premium costs for children coverage and small amounts of widow(er) coverage are particularly low. A fantastic bargain if child is incapacitated - child paid for life.
  2. SBP premiums paid for SBP coverage are not taxable income to the retiree.
  3. SBP payments to beneficiary increase with cost of living adjustments to retired pay.
  4. Guaranteed insurability.
  5. Commercial insurer more likely to go out of business than the government.
  6. Value of SBP increases when factors exist that increase the probability that the retiree will not outlive spouse. Some factors include:
    - a. Retiree is older than spouse;
    - b. Retiree has poorer health or a less healthy lifestyle than spouse (i.e., smoker); and
    - c. Retiree is male (vs. female).



- L. Disadvantages of SBP in comparison with commercial life insurance.
  - 1. SBP is subject to change by Congress.
  - 2. Factors exist that increase likelihood retiree will outlive spouse (e.g., retiree is female; younger than spouse; or spouse has a less healthy lifestyle).
  - 3. Limited revocation period. You can only withdraw from the program between the second and third anniversary from the date of your enrollment. For example, if you retired and enrolled on 1 January 2010, you will only be able to withdraw from SBP during the period from 1 January 2012 to 31 December 2012. (Note: you will stop making payments should you no longer have a covered beneficiary – i.e., divorce, death of spouse, etc.).
  
- M. Survivor Benefit Plan Annuities For Members Who Die While On Active Duty And In The Line Of Duty After 10 September 2001. 10 U.S.C. § 1448(d).
  - 1. Created in the National Defense Authorization Act for Fiscal Year 2002 (NDAA for FY02) (Pub.L. 107-107, December 28, 2001) and amended by the NDAA for FY04 (Pub.L. 108-136, November 24, 2003).
    - a. Makes the Survivor Benefit Plan available to service members with less than 20 years time in service, who die in the line of duty while on active duty without the benefit of being retired from active service.
    - b. The new law applies to all service members who die on active duty and not just to those who die with less than 20 years of active service.
    - c. This law only affects the SBP eligibility determination or annuity calculation in cases determined to be in the line of duty.

- (1) For cases determined to be not in the line of duty, SBP eligibility and annuity calculations remain in effect under the rules that existed prior to the effective date of the new law. That is, if the service member was not retirement eligible at the time of death, then SBP is inapplicable.
  - (2) If the service member was retirement eligible at the time of death that is determined not to be in the line of duty, then an SBP annuity will be paid to a qualified survivor, but will not be computed on the basis of a total disability retirement. Rather, the SBP base amount will be computed on the retirement for service rules that would have applied if the service member had retired at time of death.
2. Beneficiaries: The statute controls the beneficiary of the SBP annuity, not the elections of the service member. The law requires that the Secretary concerned shall pay an annuity to:
  - a. Surviving spouse
  - b. Dependent child.
    - (1) If there is no surviving spouse, or
    - (2) If the member's surviving spouse subsequently dies, or
    - (3) Optional annuity (for deaths on or after 7 October 2001) when there is an eligible surviving spouse, if the Secretary concerned, in consultation with the surviving spouse, determines it appropriate to provide an annuity for the dependent children instead of the surviving spouse. NDAA FY07, § 644.
  - c. Mandatory former spouse annuity (10 USC §1448(d)(3)). If an eligible member is required under a court order or spousal agreement to provide an annuity to a former spouse upon becoming eligible to be a participant in the Plan or has made an election under subsection (b) to provide an annuity to a former spouse, the Secretary:

- (1) May not pay an annuity to either the current surviving spouse or, if none, child(ren) of the member.
- (2) The annuity shall be paid to that former spouse as if the member had been a participant in the Plan and had made an election under subsection (b) to provide an annuity to the former spouse, or in accordance with that election, as the case may be, if the Secretary receives a written request from the former spouse concerned that the election be deemed to have been made in the same manner as provided in 10 U.S.C. § 1450(f)(3).

d. Amount:

- (1) The new law, governing death on active duty in the line of duty, changes the calculation of assumed retirement pay to presume that everyone receives 75% of their base pay or the average of the high three years (or whichever retirement system the service member is under) regardless of years in service.
- (2) The SBP annuity is calculated at 55% of that figure.
- (3) For spouse (note that this only applies to spouse, and not child, SBP), this amount is:
  - (a) Subject to DIC offset.
    - (i) DIC is advantageous to the spouse because it is a tax-free benefit.
    - (ii) However, many surviving spouses will only see that their SBP annuity is reduced and will not view that as beneficial. For many the amount of DIC equals or surpasses any benefit from SBP, so the new rules will result in no additional payment to the family members.

- (b) NDAA FY 2008 § 643. Due to the offset between DIC and SBP, amounts already paid are recouped and the amount the retiree paid in is refunded. However, § 643 NDAA FY 08 limits the recoupment amount to only the amount that exceeds the amount refunded.
  - (c) NDAA FY 2008 § 644 Special Survivor Indemnity Allowance for Persons Affected by Required Survivor Benefit Plan Annuity Offset for Dependency and Indemnity Compensation. Starting 1 October 2008, if a spouse is receiving both DIC and SBP subject to offset, the survivor spouse will receive additional compensation. The SSIA amount of additional compensation increases gradually from \$50 in 2009 to \$310 in 2017.
- 3. The NDAA for FY04 eliminates the services' imminent death procedures.
  - a. DOD policy prohibits imminent death processing.
  - b. DOD has deleted sub-paragraph E3.P1.6.4 of DODI 1332.32, *Physical Disability Evaluation*, which permitted imminent death processing for disability retirements. *See* memorandums from Office of the Undersecretary of Defense (Personnel and Readiness) and the Army Office of the Assistant Secretary (Manpower and Reserve Affairs), SUBJECT: Change to Imminent Death Processing Policy in DOD Instruction 1332.38, 23 December 2003 and 16 January 2004, respectively, both of which are provided at Appendix G.
- 4. Legal Assistance Pointer: Surviving spouses will need advice on whether it is more beneficial to waive the spouse SBP annuity in favor of an annuity for dependent children. Because of the DIC offset, for families with younger children, payments in earlier years would be greater; however, after the children reach age 18, the spouse would only be entitled to receive DIC. However, do not forget to calculate the tax consequences for the child recipient. *See* the examples in Appendix H.

## V. GOVERNMENT INSURANCE PROGRAMS.

- A. Servicemen's Group Life Insurance (SGLI); 38 U.S.C. §§ 1965-1976; 38 C.F.R. Part 9; Veterans' Benefits Act of 1992, § 201. Office of SGLI (OSGLI), phone number: 1-800-419-1473.
1. Group term life insurance for members of the armed forces, purchased by the government from private insurers, and partially subsidized by the government.
  2. Active Army.
    - a. Active duty soldiers are automatically insured for \$400,000, unless they opt out in writing. 38 U.S.C.S. § 1967.
    - b. Soldier can elect lower coverage (in \$50,000 increments) or no coverage by completing VA Form 29-8286. 38 U.S.C.S. § 1967.
    - c. Insurability is guaranteed when first given the opportunity to elect SGLI. Thereafter, soldiers who desire to increase coverage may be subject to insurability determinations.
    - d. Provides protection on active duty and for 120 days following separation. No premiums are required during this additional 120-day period. 38 U.S.C. § 1968.
    - e. Soldiers may lose entitlement to SGLI based on:
      - (1) Their duty status at time of death (e.g., if death occurs during extended AWOL or while serving term of confinement); or
      - (2) Other miscellaneous factors (e.g., following refusal to serve due to conscientious objector status or following conviction of certain serious crimes). *See* 38 U.S.C. § 1973.
    - f. Cause of death, however, is irrelevant to SGLI coverage.

- g. Soldiers may convert to Veterans Group Life Insurance (VGLI) within 120 days of separation. No person may carry a combined amount of SGLI and VGLI in excess of \$400,000 at any one time.
  - h. Amount is included in decedent's estate for purposes of federal estate tax, but generally exempt from the claims of creditors and other taxes, including federal income tax.
  - i. No loan, cash, paid-up, or extended insurance value.
3. Reserve Component.
- a. Certain reservists are eligible for full-time coverage.
    - (1) Unit soldiers of the ARNG and USAR and –
      - (a) Unit soldier in pay status.
      - (b) Delayed entry soldiers.
    - (2) IRR or IMA soldiers attached for training in a non-pay status to units that are scheduled for at least 12 periods of IDT annually.
    - (3) Reservists who have completed 20 years of creditable service, but have not begun receiving retired pay.
  - b. Part-time coverage is also available during periods of AT and ADT.
4. Cost
- a. Cost is determined by regulation.

- b. For each month that a member is serving in a combat operation or zone of combat, the cost of \$400,000 of insurance coverage will be paid by the Department of Defense. 38 U.S.C. § 1969.

5. Eligible beneficiaries.

- a. Any person designated by the soldier on appropriate SGLV Form 8286). SGLI Act gives service member absolute right to choose beneficiary.

- b. If no designation, or "By Law" designation, then proceeds paid according to SGLI statute:

- (1) All to spouse, but if none, then

- (2) All to surviving children in equal shares (and descendants of deceased children, by representation), but if none, then

- (3) All to parents (equally divided), but if none, then

- (4) All to executor of soldier's estate, but if none, then

- (5) Next of kin under state law.

- c. Importance of proper designation.

- (1) Avoid "By-Law" designation. "By Law" designations are no longer authorized within the Army. Message, Total Army Personnel Command, TAPC-PEC, subject: Servicemen's Group Life Insurance (SGLI) Program Change (021131Z Mar 93).

- (2) But ensure soldier keeps designation current!

- (3) Consider trustee (living or testamentary) or custodian under Uniform Gifts (Transfers) to Minors Act (UGMA/UTMA) as designated beneficiary for minor children. Such designation may avoid delay and expense in the payment of proceeds.
6. Notice Requirements (38 U.S.C.S. § 1967(f)).
  - a. If a member with a spouse elects not to be insured or to be insured for an amount less than the maximum amount, then the spouse shall be notified.
  - b. If member who is not married elects not to be insured or to be insured in an amount less than the maximum amount, then a person designated as a beneficiary or as next-of-kin for purposes of emergency notification shall be notified of the member's insurance election.
  - c. A member with a spouse may not modify beneficiaries without providing notice of such modification to the spouse.
7. Settlement options.
  - a. Accelerated Death Benefits under SGLI/VGLI for servicemembers in terminal condition (within nine months of death). See Appendix E.
  - b. Soldier may elect lump sum or 36 monthly installments. (On Form SGLV 8286).
  - c. If no election, beneficiary may elect type of settlement.
  - d. Alliance Account & financial services.
8. Apply for Death Benefits by submitting SGLV-8283, Claim for Death Benefits, to OSGLI, 80 Livingston Avenue, Roseland, NJ 07068-1733.



- B. Veterans Group Life Insurance (VGLI) (38 U.S.C. §§ 1977-1979).
1. Renewable group term life insurance available after soldier leaves active duty. VGLI is five-year renewable term insurance.
  2. Up to \$400,000 in coverage available.
  3. Active Army soldiers should apply for VGLI within 120 days of leaving the service.
  4. Reservists are also eligible when:
    - a. Being released from AD, ADSW, or ADT under call or order specifying not less than 31 days; and
    - b. Members of the IRR and ING (i.e., Inactive National Guard).
  5. VGLI rates (see Appendix C).
  6. Certain reservists may also be eligible.
- C. Servicemembers' Group Life Insurance Family Coverage (FSGLI): The Veteran's Opportunity Act of 2001, enacted 5 June 2001, amended Title 38 United States Code, §§ 1965-1970, extending SGLI coverage to insurable dependents.
1. Eligibility: All insurable dependents of active duty and Ready Reserve members covered by SGLI are automatically covered beginning 1 November 2001.
    - a. Insurable dependents include a spouse and all unmarried dependent children under the age of 18, and those over 18 but younger than 23 who attend an accredited school.

- b. The definition of “child” includes legitimate children, adopted children, illegitimate children of female members, illegitimate children of male members if acknowledged in writing by the military member or judicially recognized, and stepchildren living in the home of the military member.

2. Spousal Coverage:

- a. A spouse is automatically eligible for \$100,000 of coverage (or to the same level as the military member’s SGLI coverage if less than \$100,000).
- b. A military member elects not to cover the spouse at all or to reduce the \$100,000 coverage in increments of \$10,000 on form SGLV 8286A (Family Coverage Election). The military member pays a premium (by automatic military pay deduction) for spousal coverage.
- c. A spousal policy terminates 120 days after:
  - (1) The military member elects, in writing, to terminate spouse coverage.
  - (2) The military member’s SGLI coverage terminates.
  - (3) The military member dies.
  - (4) The military member and spouse divorce.
  - (5) The spouse can convert the spousal SGLI policy into a commercial policy within 120 days of termination. The Office of Servicemembers’ Group Life Insurance (OSGLI) will provide a list of participating commercial companies upon request. The spouse cannot convert the SGLI to Veteran’s Group Life Insurance (VGLI).
- d. The military member is the beneficiary of the spousal SGLI policy.

- e. The spouse has no incidents of ownership over the policy.
- f. The spouse cannot change the beneficiary, name the beneficiary or contingent beneficiary, nor revoke the policy.
- g. If a spouse dies and before OSGLI pays the proceeds the military member also dies, then the spousal SGLI proceeds are paid in accordance with the military member's SGLI policy beneficiary designation.
- h. If a military member elects not to cover the spouse and later wants to provide spousal coverage, the member must complete for SGLV 8285A (Request for Family Coverage).
- i. Dual Military Couples and FSGLI.
  - (1) All Servicemembers must enroll all family members in DEERS. This includes a spouse who is also a military member, even though that spouse is already enrolled in DEERS in his or her own right as a military member. Commands will conduct 100% reviews of FSGLI status.
  - (2) DoD Reg. 7000.14-R requires both spouses to register each other in DEERS. Once a Servicemember enrolls his or her spouse in DEERS, the military pay systems will automatically begin deducting premiums from that Servicemember's pay.

3. Child Coverage.

- a. Every dependent child of the military member is automatically covered by a \$10,000 policy.
- b. There is no premium charged for a child's policy.
- c. The military member cannot decline nor reduce the child policy.
- d. Coverage for a child terminates 120 days after:

- (1) The military member's SGLI coverage terminates.
  - (2) The military member separates from service.
  - (3) The military member dies.
  - (4) The child no longer qualifies for dependent status.
- e. A child policy cannot be converted to a commercial policy at anytime.
- f. The military member is the beneficiary of the child's policy.
- g. If the child dies and before OSGLI can pay the proceeds the military member also dies, the child's policy proceeds are paid in accordance with the military member's SGLI policy beneficiary designation.
- h. A child of a dual military couple is only covered by one policy. In the event of the child's death, the proceeds of the child's policy are paid to the military member eligible for SGLI coverage the longest. If a dual military couple divorces, the proceeds of a deceased child's policy are paid to the member with custody of the child.

D. Traumatic Injury Protection Insurance Program (T-SGLI) (38 U.S.C.S. § 1980A)

1. T-SGLI was added by Pub. L. No. 109-13, § 1032, 119 Stat. 231, 257 (2005).
2. It is a rider that will be attached to SGLI coverage and will provide payments that will range from \$25,000 to \$100,000 to active duty members, reservists, funeral honors duty, and one-day muster duty members, but not to family members.
3. It has a retroactive provision for traumatic injuries suffered between October 7, 2001, and November 30, 2005, if the qualifying loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom.

4. Traumatic injuries include, but are not limited to: total and permanent loss of sight; loss of a hand or foot by severance at or above the wrist or ankle; total and permanent loss of speech; total and permanent loss of hearing in both ears; loss of thumb and index finger of the same hand by severance at or above the metacarpophalangeal joints; quadriplegia, paraplegia, or hemiplegia; burns greater than second degree, covering 30 percent of the body or 30 percent of the face; and coma or the inability to carry out the activities of daily living resulting from traumatic injury to the brain.
5. The cost for coverage will be \$1.00 per month for active duty members and reservists with full-time coverage; \$1.00 per year for reservists with part-time coverage; and no charge for those on funeral honors duty and one-day muster duty.

**VI. DEPENDENTS EDUCATIONAL ASSISTANCE (DEA) (38 U.S.C. §§ 3500-3566; 38 C.F.R. PART 21).**

- A. Death of member must be under same circumstances that qualify dependents for receipt of DIC. Additionally, dependents of a totally disabled, but living, veteran may qualify.
- B. School must be approved for Department of Veterans Affairs (VA) benefits (*see* 38 U.S.C. § 3523 and § 3672; 38 C.F.R. § 21.7120).
  1. Each state establishes an agency that certifies educational programs according to standards established by the VA.
  2. Generally, the VA will not allow approval of courses that are primarily vocational or recreational in nature. The statute and regulation contain a list of specific courses which are either prohibited or discouraged.

C. Eligible Recipients.

1. Surviving spouses.

- a. Period of eligibility for a spouse of a person who does not die on active duty extends to 10 years from the date of the veteran's death; extension is possible. 38 U.S.C. § 3512(b)(1)(A).
- b. The period of eligibility for a spouse of a person who is entitled to the benefit because of the death of a person on active duty extends for 20 years from the date of eligibility. 38 U.S.C. § 3512(b)(1)(C).
- c. DEA is not be reduced by DIC payments.
- d. Remarriage permanently terminates DEA payments.

2. Children.

- a. Eligibility for child ends at age 26 (unless extended under certain conditions such as the child serving on active duty with the Armed Forces).
- b. Children must elect between DEA and DIC. Election of educational benefits is irrevocable and DIC may not be received once educational benefits begin. (Can receive DIC until age 23 and educational benefits to age 26)
- c. Marriage does not bar payments.

D. Amounts Available (38 U.S.C. § 3532, effective December 22, 2006).

- 1. The VA will pay eligible recipients different amounts depending on what type of training they attend (e.g., institutional vs farm cooperative training), whether they attend full or part time, and what tuition and fees they are charged.

2. Payments made for a maximum of 45 school months (or to the equivalent thereof in part-time training).
- E. State Programs. Servicemembers should not overlook numerous state educational programs such as Georgia's Hope Scholarship/Grant, and Texas's Hazlewood Exemption.

## **VII. SOCIAL SECURITY BENEFITS.**

- A. General Types of Benefits.
- B. Eligibility. For an individual (or his/her survivors) to qualify for social security benefits, the individual will have to be either fully insured or currently insured, or both, depending on the benefit (but see para. C.2.d. below).
1. An individual is fully insured upon receipt of 40 quarters of social security work credits. If an individual dies before age 62, he/she may be considered as "fully insured" with less than 40 credits. The actual number of credits needed depends on age at time of death.
  2. An individual is currently insured if the individual has at least six quarterly work credits in the past 13 quarters.
  3. Generally, one social security work credit is awarded for each \$600 of wages upon which FICA taxes are paid. A maximum of four credits can be earned in a year (hence, "quarterly credits").
- C. Available Benefits for Survivors.
1. Lump sum death benefit of \$255 (deceased must have been either fully or currently insured at time of death).
  2. Monthly survivor benefit payments.
    - a. Children under age 18 (deceased fully or currently insured).

- b. Widow(er) with children under 16 (deceased fully or currently insured).
  - c. Widower age 60 and over (deceased must have been fully insured at time of death).
  - d. If the death was service-connected, but the soldier was not either fully or currently insured, the VA will make up any of these Social Security payments for which the soldier's survivors do not qualify (38 U.S.C. § 1312(a)).
  - e. Amount of monthly benefits depends on work history of insured and family situation. Generally, the more social security (FICA) taxes paid by the insured, the greater the benefits available to the survivors. When calculating the amount of FICA taxes paid by an active duty soldier, most soldiers will qualify for an additional \$1,200 annual credit above the actual amount of FICA taxes paid.
- 3. Social Security benefits may be reduced if surviving spouse has earned income.
  - 4. More specific information on social security entitlements can be obtained by calling 1-800-772-1213 or on the [www.ssa.gov](http://www.ssa.gov) web site, where you can apply for retirement benefits.

## **VIII. OTHER PAYMENTS AND BENEFITS TO SURVIVORS OF DECEASED MEMBERS.**

- A. Death Gratuity (10 U.S.C. § 1475).
  - 1. Conditions of payment.
    - a. Soldier died on active duty (except if put to death by U.S. as lawful punishment for crimes committed; 10 U.S.C. §1480), or
    - b. 120 days after release if death resulted from disease or injury incurred while on active duty.



2. Amount.

- a. Lump sum payment of \$100,000 made by the local finance office. NDAA for FY06 amended 10 U.S.C. § 1478(a) increasing the death gratuity from \$12,000 to \$100,000. The amendment applies to all deaths occurring on or after 7 October 2001.
- b. The lump sum payment amount does not depend on the rank or years of service of the deceased.
- c. An additional death benefit may be possible depending on the circumstances and date of death. See 10 USC § 1478(d).

3. Beneficiaries.

- a. NDAA FY 2008 § 645 amends 10 U.S.C. § 1477 the authority of servicemembers to designation recipients of the death gratuity. On or after 1 July 2008 servicemembers may designate one or more persons to receive all or a portion of the death gratuity. The designation shall be in 10% increments and the balance of the death gratuity, if any, will be paid pursuant to subsection (b) of 10 U.S.C. § 1477.
- b. If the servicemember is married but does not designate the spouse to receive the entire death gratuity, the spouse will receive notification of the designation.
- c. If the servicemember fails to make a designation or designates only a portion of the death gratuity, then the death gratuity will be paid pursuant to subsection (b) of 10 U.S.C. § 1477.
- d. Subsection (b) 10 U.S.C. § 1477 provides the death gratuity will be paid as follows: First to the surviving spouse, if any; If no surviving spouse, then to children equally without regard to age or marital status; If no spouse or children, then to the parents; If no parents, to the administrator of the estate; if no administrator, then to the next of kin.

4. Tax consequences (I.R.C. § 101(b)(1)): If payment is for a death occurring after 10 September 2001, the entire \$100,000 tax free. I.R.C. § 134(b)(3)(C).
  5. Apply by submitting DD Form 397, Claim Certification and Voucher for Death Gratuity Payments, to local finance office.
- B. Unpaid Pay and Allowances. 37 U.S.C. § 501; Chap. 5, para. 40511, DOD Military Pay and Allowances Manual.
1. Amount.
    - a. All pay due soldier at death, including allowances.
    - b. Accrued leave, which can even exceed 60 days.
  2. Beneficiaries.
    - a. Designated by soldier.
    - b. If no designation, to spouse, children, parents, or the estate (in that order).
- C. Burial Benefits (10 U.S.C. § 1482; 38 U.S.C. §§ 2301-08 & 2402; 38 C.F.R. § 3.1600).
1. Burial in a national cemetery.
    - a. The following individuals are eligible for burial in a national cemetery:
      - (1) All active duty personnel;
      - (2) Veterans who served a minimum period of time on active duty (generally, 2 years) and were discharged with an other than dishonorable characterization; and

- (3) Reservists who die on active duty, or die as a result of service-connected injuries, or die after completing 20 good years toward retirement. *See* Pub. L. No. 103-240.
  - b. Burial in a national cemetery is on a space available basis. Eligibility creates the rights to:
    - (1) A headstone (monetary reimbursement no longer available), and
    - (2) A grave liner (if actually buried in a national cemetery).
2. Additional assistance with burials.
- a. All active duty soldiers. The next of kin are eligible for the following support:
    - (1) Interment Allowances: (10 USC 1481 & 1482; DoD Instruction 1344.8, March 11, 2009).
      - (a) If service arranges preparation and casket:
        - (i) \$6,000 if consigned to funeral home and burial in civilian cemetery;
        - (ii) \$3,600 if consigned to funeral home and burial in government cemetery;
        - (iii) \$1,000 if remains are consigned directly for burial in a government cemetery.
      - (b) If family arranges preparation and casket:
        - (i) \$8,800 for burial in civilian cemetery;
        - (ii) \$7,300 for burial in government cemetery.

(2) Reimbursement for next of kin travel to the burial site. 37 U.S.C. § 411f.

b. Certain veterans. The next of kin may be entitled to a burial allowance and an allowance for preparation and transportation of remains.

3. Military funeral honors have become a statutory benefit for all veterans effective January 1, 2000. 10 U.S.C. § 1491. *See* <http://www.militaryfuneralhonors.osd.mil/>.

D. Other Military Benefits.

1. Travel of dependents and shipment of household goods and personal effects. 37 U.S.C. § 406(f).

2. Temporary continuation of allowance for dependents of members dying on active duty to continue to occupy family housing for 365 days without charge. If dependents not in family housing basic allowance for housing at the rate that is payable for members of the same grade and dependency status as the deceased member for the area where the dependents are residing for 365 days. If in family housing and vacate before 365 days, then the dependents can receive basic allowance for housing for the remainder of the 365 days. 37 U.S.C. § 403. (The 180-day periods were extended to 365 days from May 11, 2005, until September 30, 2005, at which time they revert back to 180 days. Pub. L. No. 109-13, § 1022, 119 Stat. 231, 251 (2005). Permanently to 365 days in NDAA FY 2006). NDAA FY 2007 § 605 extends 37 U.S.C. § 403(1)(1-4) allowing for payment of housing allowance for dual military for 365 days.

3. Emergency financial assistance (Army Emergency Relief and/or American Red Cross).

4. Continued service benefits and privileges for dependents of soldier dying on active duty.

a. Commissary.

b. Post Exchange.

- c. Medical care.
  - d. Legal assistance.
  - e. VA Death Pension (38 U.S.C. § 5112(b)(4); 38 C.F.R. § 3.660(d); and DA Pam 360-526, p. 16). This benefit is designed for surviving spouses and children of wartime veterans (i.e., those who served at least 90 days during designated war periods) whose survivors have limited income. Service during Desert Storm qualifies. Property holdings and date of marriage to the veteran also affect eligibility. Death need not be service-connected.
5. Marine Gunnery Sergeant John David Fry Scholarship (38 U.S.C. § 3311(f)). Providing Post 9-11 GI Bill benefits to children of servicemembers who die in the line of duty after 11 SEP 01.

E. Person Authorized to Direct Disposition (PADD) 10 U.S.C. § 1482(c)

- 1. Service member designates the spouse or blood relative to direct disposition over the service member's remains. The designation is reflected on DD Form 93, Block 13. See MILPER Message 06-020.
- 2. If the person designated by the service member declines to direct disposition over the remains or predeceases the service member then the remains will be given to the following in order of precedence:
  - a. Surviving spouse.
  - b. Sons or daughters if age of majority and if more than one child, the most senior.
  - c. Parents in order of seniority, unless only one had legal custody of the deceased service member.
  - d. Another relative that had legal custody over the service member.
  - e. Siblings. Full siblings by seniority; if none, then half-siblings by seniority.

## **IX. CONCLUSION.**

- A. The survivor benefits area of law is quite complex and constantly changing. It is extremely important to stay current with the latest benefit changes in order to provide Servicemembers and their surviving family members the best service possible.
  
- B. Servicemembers and their survivors can also receive assistance provided by numerous organizations such as FinancialPoint and the Armed Services Corporation. Their websites are listed below:
  - 1. <http://www.insurance.va.gov/SGLISITE/BFCS/BFCS.htm>.
  
  - 2. <http://www.afsc-usa.com/societies.html>.

## APPENDIX A

### SBP FOR THE RESERVE COMPONENT

- C. Under Option A, the member defers election to participate until age 60. If the reservist dies prior to reaching age 60, then there will not be an annuity to the reservist's survivors. (NOTE: Married members must provide written spouse concurrence to elect this option.)
  
- D. Under Option B, coverage is in effect immediately, but the beneficiary does not receive the SBP annuity until the date the service member would have reached age 60. (Married members must provide written spouse concurrence to elect this option for "spouse only" or "spouse and child" beneficiaries.)
  
- E. Under Option C, coverage is in effect immediately. The beneficiary begins receiving SPB benefits immediately upon the reservist's death. (Married members must provide written spouse concurrence to elect this option if the coverage is less than the maximum level for "spouse only" or "spouse and children.")
  
- F. Cost of electing any coverage before age 60 (Options B and C) is shared by the retiree (through increased premiums) and the beneficiary (through decreased benefits). The cost is based on a complicated calculation involving:
  - 1. The option elected;
  
  - 2. Retiree's age at election;
  
  - 3. Difference in age of retiree and beneficiary at election; and
  
  - 4. Actuarial tables.
  
- G. Under all three options, no SBP premiums are actually paid until the reservist reaches age 60 and begins to draw retirement pay.

## **COST OF RESERVE COMPONENT SBP**

### Option A:

No payments are due until the retiree reaches age 60.

### Options B and C:

If RCSBP Option B (Deferred Annuity) or Option C (Immediate Annuity) is elected, there is a Reserve Portion cost added to the basic cost to cover the additional benefit and assured protection should you die prior to age 60. The Reserve Portion cost is based on a percentage of the SBP base amount, and it is dependent on your age and the age of your beneficiary at the time the RCSBP election is made.

For Option B, the annuity begins on what would have been your 60th birthday if you die before that age. If you die after age 60, the annuity begins on the day after your death.

For Option C, the annuity begins on the day after your die, regardless of your age at death.

**An online RCSBP calculator is available at <http://www.armyg1.army.mil/rso/pay.asp>.**



## **APPENDIX B SURVIVOR CHECKLIST**

The following steps should be taken by the survivor of a deceased soldier or veteran.

1. Contact all insurance companies. They will require:
  - a. Policy Numbers, and/or;
  - b. Full name of the decedent.
2. Request approximately 10 certified copies of the Death Certificate.
3. Contact the Department of Veterans Affairs for burial payment. They will require:
  - a. Full name of the deceased.
  - b. Social Security Number and Branch of Service.
4. Contact the Department of Veterans Affairs for possible benefits for next of kin if Soldier died while on active military duty. They will require:
  - a. Certified copy of the Death Certificate.
  - b. Copy of Marriage Certificate.
  - c. Copies of the Birth Certificates of all dependent children.
5. If Soldier retired from military service after September 21, 1972, contact respective branch of service for Survivors Benefit Plan (SBP). They will require:
  - a. Full name of the deceased.
  - b. Social Security Number.
6. Contact Soldier's respective branch of service for Retired Serviceman's Family Protection Plan (RSFPP). They will require:
  - a. Full name of the deceased.
  - b. Social Security Number.

7. Contact nearest Social Security Office. They will require:
  - a. Certified copy of Death Certificate.
  - b. Social Security Number of deceased.
  - c. Social Security Numbers for spouse and dependent children.
  - d. Birth Certificates for spouse and dependent children.
  - e. Approximate earnings of deceased in the year of his death and present employer's name.
8. Contact veteran's present employer for possible insurance.
9. Contact your veteran's present employer for funds possibly due from Credit Union participation.
10. Contact Bank for possible mortgage insurance.
11. Notify all creditors of death; there may be Credit Life Insurance on installment loans.
12. Contact any fraternal organization to which the deceased may have belonged for possible life insurance.
13. Contact Civil Service if deceased was employed for more than 18 months in Civil Service.
14. Search for a Will. It may explain how the deceased wanted to disburse the funds and to determine if there are trust funds in existence.
15. Look for check stubs or any canceled checks for payments to an insurance company. Check for securities, real estate, and a safe deposit box.
16. Check for past enrollment in the Veteran's Education Assistance Program and/or payroll purchase plan for Savings Bonds.
17. If death occurred on a common carrier, survivors may be able to collect damages from the carrier (for fault or negligence) and/or insurance proceeds from the relevant travel agent/credit card issuer (no fault or negligence required).
18. If death occurred due to combat, there may be federal tax breaks, both on income tax (I.R.C. § 1692) and estate tax (I.R.C. § 2201).
19. Contact the VA for information on possible state benefits, including bonuses, educational assistance, employment preferences, and tax exemptions.

**APPENDIX C**  
**VGLI RATES**

For more complete information see the rate charts at the following web addresses:

<http://www.insurance.va.gov/sgliSite/VGLI/VGLI%20rates.htm>

<http://www.armyg1.army.mil/rso/pay.asp>

## APPENDIX D - RECOMMENDED SGLI LANGUAGE

SGLI intended for minors may be designated by the soldier for placement in a trust; for placement in a custodianship under the Uniform Gifts or Uniform Transfers to Minors Act; or for outright gift (in which case a court must appoint a guardian or conservator to receive and maintain the proceeds). The following language is recommended for trust/custodianship SGLI beneficiary designations on the SGLV-8286 (Servicemembers' Group Life Insurance Election and Certificate) (*see AR 600-8-1, figures 11-12 to 11-14*):

- \* Testamentary Trust for Children:<sup>1</sup> **"My trustee to fund a trust established for the benefit of my children<sup>2</sup> under my will."**
- \* Living Trust for Children:<sup>3</sup> **"(Name of trustee), my trustee, pursuant to a trust agreement dated (date)."**
- \* Custodianship under the Uniform Gifts or Uniform Transfers to Minors Act:<sup>4</sup> **"(Name of custodian), as custodian for each of my children,<sup>5</sup> pursuant to the UGMA/UTMA of the state of (name of state), (with distribution to each minor when that minor reaches age (desired age))."**

Instructions for SGLI preparers on EMILPO

1. At main menu, click on SGLI.
  2. On first screen, click box to "add beneficiary."
  3. Click "submit." This leads to the beneficiary add page. Skip – Family Member; Skip – Designation by Relationship. The third selection down allow you to choose "Relationship" – Select "Trustee" or "Custodian".
  4. Skip name and address information and instead choose Type/Share/Amount/Option.
  5. Then go to text box and type the language for Trust or UGMA/UTMA as applicable.
- Using this method allow for the printed form to contain the appropriate language within the beneficiary box as well as the "Trustee" or "Custodian" in the "relationship" box on the SGLV.

---

<sup>1</sup> The soldier's will must contain a trust.

<sup>2</sup> The definition of "children" in the SGLI statute excludes stepchildren and certain illegitimate children. If any such children are intended beneficiaries, they should probably be included by name in the SGLI designation. For example, "... for the benefit of my children, including my stepchild, Mary Lamb, ...."

<sup>3</sup> The soldier must create a living trust prior to completing the SGLI form. A copy of the trust agreement should be provided to the SGLI office.

<sup>4</sup> Life insurance custodianships are recognized in every state. A separate custodianship will be established for each child. Either the soldier, the children, the custodian, or OSGLI should have some connection with the state named by the soldier. The age of distribution to the child in most jurisdictions is 18, although in CO, CT, IN, IA, MA, and TN the age of distribution is 21. In CA and NV (and only in these jurisdictions), the soldier may designate any age between 18 and 25 as the age of distribution.

<sup>5</sup> *See* discussion, *supra*, note 2.

**APPENDIX E**  
**INFORMATION PAPER**

DAJA-LA  
25 March 1999

SUBJECT: Accelerated Death Benefit – SGLI [See <http://www.insurance.va.gov/sgliSite/ABO/ABO.htm>, last visited 7 July 2010]

1. PURPOSE: To provide information on obtaining an accelerated death benefit for terminally ill SGLI policy holders.
2. FACTS.
  - a. The President signed in to law on Veterans Day (November 11) as part of the Veterans Programs Enhancement Act. Implementation date was February 9, 1999. Interim final rule under review.
  - b. The Department of Veterans Affairs will issue rules soon. Watch VA's web site for more details: <http://www.va.gov>.
  - c. Holders of Servicemen's Group Life Insurance (SGLI) or Veterans Group Life Insurance (VGLI) who have been diagnosed as terminally ill may receive up to half the face value of their SGLI/VGLI policy as a lump sum - \$5,000 increments up to 50 percent available.
  - d. To qualify for the accelerated benefit, the policyholder must be diagnosed as having a life expectancy of less than 9 months. The member's subsequent SGLI/VGLI premiums will be reduced to reflect the remaining face value of the policy. The election may not be made more than once, and it will be irrevocable.
  - e. Not taxable - under the new law, the accelerated death benefit payment "shall not be considered income or resources for purposes of determining eligibility for or the amount of benefits under any Federal or federally-assisted program or for any other purpose."
  - f. Send proof of policy coverage & medical diagnosis to

Office of Servicemembers' Group Life Insurance (OSGLI)  
213 Washington Street  
Newark, NJ 07102-2999  
1-800-419-1473

COL Hancock/703-588-6708

APPENDIX F



OFFICE OF THE UNDER SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

23 DEC 2003


PERSONNEL AND  
READINESS

MEMORANDUM FOR ASSISTANT SECRETARY OF DEFENSE  
(RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE ARMY  
(MANPOWER AND RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE NAVY  
(MANPOWER AND RESERVE AFFAIRS)  
ASSISTANT SECRETARY OF THE AIR FORCE  
(MANPOWER AND RESERVE AFFAIRS)

SUBJECT: Change to Imminent Death Processing Policy in DoD Instruction 1332.38

Section 645 National Defense Authorization Act for FY 2004 expanded Section 1448(d), 10 USC, to provide a Survivor Benefit Plan (SBP) annuity for the surviving dependent children of a member who dies while on active duty but is not yet eligible for retirement, instead of the surviving spouse provided the Secretary concerned, in consultation with the surviving spouse, determines such an annuity is appropriate. Prior to this change, a dependent child could only receive the SBP annuity when there was no surviving spouse or when a surviving spouse subsequently died.

Sub-paragraph E3.P1.6.4 of DoD Instruction 1332.38, Physical Disability Evaluation, has allowed the Services to expeditiously refer members to the Disability Evaluation System when "competent medical authority determines that a Service member's death is expected within 72 hours." However, as a result of the recent expansion of SBP eligibility, this process is no longer appropriate. Sub-paragraph E3.P1.6.4 of DoDI 1332.38 is hereby rescinded, and Imminent Death Processing shall no longer be undertaken. Revisions to the new DODI will reflect this change. Please provide a copy of your implementation message to this office not later than 30 days from the date of this letter.

  
Charles S. Abell  
Principal Deputy



**SUBJECT: Change to Imminent Death Processing (IDP) Policy in DoD Instruction  
1332.38**

**cc:**

**ASD (HA)**

**Surgeon General, Army**

**Surgeon General, Navy**

**Surgeon General Air Force**



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE  
4000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-4000

1 May 02

FORCE MANAGEMENT  
POLICY

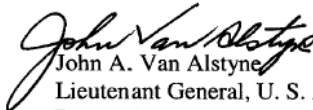
MEMORANDUM FOR DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(HUMAN RESOURCES)  
PRINCIPAL DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(PERSONNEL PROGRAMS)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(FORCE MANAGEMENT AND PERSONNEL)  
DIRECTOR, DEFENSE FINANCE AND ACCOUNTING SERVICE

SUBJECT: Survivor Benefit Plan (SBP) Annuities when Member Dies on Active Duty

This memorandum provides uniform guidance to the Services and the Defense Finance and Accounting Service (DFAS) for implementing section 642, National Defense Authorization Act for Fiscal Year 2002 (NDAA 2002), Public Law 107-107, December 28, 2001. This section of law provides new benefits under the Uniformed Services Survivor Benefit Plan (SBP). The new benefits are effective for deaths of members that occur on or after September 10, 2001. New benefits are provided in the case of most members not yet retirement eligible. Increased benefit amounts are provided in most cases of members eligible for retired pay. No new benefits are provided when the death of a member is determined to be not in Line-of-Duty.

Policies, procedures, and responsibilities for the new provisions of law are attached. These include the criteria for a qualified death, the determination of qualified beneficiaries, the computation of benefits, and guidelines for Line-of-Duty determinations necessary to support the award of benefits. Since these provisions apply retroactively, Services should identify qualified recipients and DFAS should initiate annuity payments as quickly as possible.

Separate guidance is being staffed to govern the practice of imminent death retirements. Deaths on active duty do not result in any Insurable Interest or Supplemental SBP benefits. All SBP elections remain available to all members who are retired, whether for length of service or for disability.

  
John A. Van Alstyne  
Lieutenant General, U. S. Army  
Deputy Assistant Secretary  
(Military Personnel Policy)

Attachment: As stated  
cc: See distribution list

Distribution List:



Deputy Chief of Staff for personnel, U.S. Army  
Deputy Chief of Naval Operations (Manpower and Personnel), U.S. Navy  
Deputy Chief of Staff for Personnel, U.S. Air Force  
Deputy Chief of Staff Manpower and Reserve Affairs, U.S. Marine Corps  
Assistant Commandant for Human Resources, U.S. Coast Guard  
Director, Division of Commissioned Personnel, U/S. Public Health Service  
Director, National Oceanic and Atmospheric Administration Corps Operations-NC  
DoD Chief Actuary  
Deputy General Counsel (Fiscal)

## **Implementing Policies, Procedures, and Responsibilities Section 642, P.L. 107-107, December 28, 2001**

### **General**

Section 642, Public Law 107-107, December 28, 2001, provides expanded benefits under the Uniformed Services Survivor Benefit Plan (SBP) for the qualified survivors of eligible members who die in the Line-of-Duty while serving on active duty. These benefits are effective for a death on or after September 10, 2001. Active duty is that duty defined by 10 U.S.C. 101(d)(1). This includes reserve members on active duty for annual training duty, whether or not their orders specify a period of more than 30 days. Reserve members serving periods of inactive duty training are not included.

This document provides uniform guidance as to when a death qualifies survivors for benefits, which survivor or survivors are entitled to an annuity, and how annuities will be computed. It also establishes general guidelines for Line-of-Duty determinations and prescribes implementing responsibilities and procedures.

### **Qualified Deaths**

A qualified death under the provisions of Section 1448(d), title 10, United States Code [10 U.S.C. 1448(d)], as amended by P.L. 107-107, is a death of a member on active duty who:

- (1) Died in the Line-of-Duty, or
- (2) Died not in the Line-of-Duty, but was retirement eligible as described by 10 U.S.C. 1448(d)(1)(A).

Benefits for those described in (2) are unchanged by the amendments of P.L. 107-107.

Guidance is provided below concerning the determination of whether the member's death was in the Line-of-Duty.

The death of a member is not a qualified death if the member was not on active duty, or was on active duty but whose death is determined to be not in the Line-of-Duty and the member was not eligible to retire as described in 10 U.S.C. 1448(d)(1)(A). The survivors of members whose death is not qualified are not entitled to SBP benefits under the provisions of 10 U.S.C. 1448(d), but may be entitled to other benefits under existing laws and regulations.

## Qualified Annuitants

The amendments of P.L. 107-107 did not change the law with respect to who may receive an SBP annuity based on a qualified death (as described above). The only changes were in the criteria for a qualified death and the method of calculating the annuity.

In general, an annuity is payable to a surviving spouse unless an annuity is payable to a former spouse under the provisions of 10 U.S.C. 1448(d)(3). A former spouse annuity takes precedence over any other SBP annuity payable because of the service of the deceased member.

Under the provisions of 10 U.S.C. 1448(d)(2), a member's children qualify to receive an annuity under these provisions only when a former spouse annuity does not apply and either there is no surviving spouse or the surviving spouse later dies. A member's children are not qualified annuitants when a surviving spouse loses entitlement to an annuity as a result of a remarriage before age 55.

No other persons are qualified to receive benefits under these provisions. No benefits will be paid under these provisions to a person with an insurable interest as described in 10 U.S.C. 1448(b)(1).

## Annuity Amounts

The annuity payable for a qualified death (as described above) under the provisions of 10 U.S.C. 1448(d) will be computed with the SBP base amount equal to the amount of retired pay that would have been paid to the member had that member been retired on the date of death as follows:

- (1) For a qualified death in the Line-of-Duty, the SBP base amount is equal to the retired pay as if the member were retired with total (100%) disability under 10 U.S.C. 1201 (which is equal to 75% of the appropriate retired pay base as described below). The annuity is then normally either 55 or 35 percent of the SBP base amount, following the provisions of 10 U.S.C. 1451(c).
- (2) For a qualified death not in the Line-of-Duty and the member is retirement eligible under 10 U.S.C. 1448(d)(1)(A), the SBP base amount is equal to the retired pay as if the member were retired for length of service under the applicable section of law for the respective service of the deceased member (which is 2.5% multiplied by the qualifying creditable years of service multiplied by the appropriate retired pay base as described below). The annuity is then normally either 55 or 35 percent of the SBP base amount, following the provisions of 10 U.S.C. 1451(c).

**Retired Pay Base:** The retired pay base applicable to a qualified death will be calculated as described under 10 U.S.C. 1406 or 1407 as appropriate to the deceased

member's Date of Initial Entry on Military Service (DIEMS). Further, such annuity calculations shall be made without regard to any reduction in the multiplier that would apply to a member under 10 U.S.C. 1409(b)(2) who elected to receive a bonus under the provisions of 37 U.S.C. 322. Cost-of-living adjustments (COLAs), however, shall be applied in the same percentage that would have applied to the member's retired pay (had the member not died). Therefore, for members who elected the bonus under 37 U.S.C. 322, the COLA applied to the SBP annuity will be reduced pursuant to 10 U.S.C. 1401a(b)(3).

No supplemental SBP (SSBP) benefits will be paid under these provisions to a surviving spouse of a member who dies while serving on active duty. Any SBP annuity paid under these provisions to a surviving spouse shall be reduced by the amount of dependency and indemnity compensation to which the surviving spouse is entitled under 38 U.S.C. 1311(a). Any such reduction shall be effective on the date of the commencement of the period of payment of such compensation.

### **Line-of-Duty Determinations**

For purposes of determining eligibility for SBP benefits under 10 U.S.C. 1448(d), a service member's death will generally be considered to have occurred in Line of Duty unless: (1) the death occurred while the member was not serving on active duty, (2) the death was the result of the member's own intentional misconduct or willful negligence, or (3) the death occurred during a period of unauthorized absence.

For purposes of this section, the military services will make a written finding as to whether a member's death on or after September 10, 2001 was in the Line-of-Duty while the member was serving on active duty. The written finding must describe the circumstances under which the member died, and it must also address whether the death was caused by the member's own intentional misconduct or willful negligence and whether the death occurred during a period of unauthorized absence.

With the exception of the requirements contained in this memorandum and other current DoD guidance governing Line of Duty determinations and investigations, each military service should continue to apply its own existing regulatory guidance and procedures. A copy of all Line-of-Duty determinations will be retained by the military services for the period required by agency regulations but not less than three years, and will be subject to a DoD Joint Service review to be conducted approximately one year after implementation of this law. The DoD Joint Service review will assess uniformity and consistency among the military services with respect to this provision of law.

### **Responsibilities**

The military services must review the death of each member who died on active duty on or after September 10, 2001, to ascertain whether the death was in the Line-of-Duty and

whether there are any qualified survivors entitled to SBP payments. The military services will inform the Defense Finance and Accounting Service (DFAS) of their Line-of-Duty determinations. The determination may be recorded in the remarks section of the DD Form 1300, Report of Casualty; Block 10 of the DD Form 261, Report of Investigation Line of Duty and Misconduct Status; or on any other form authorized under individual Service regulations. However, all Line of Duty (LOD) determinations must be supported by a written finding which describes the circumstances of death that support that LOD determination, as outlined in the guidance above. DFAS does not require a copy of the written finding, only an official communication from the Service to indicate the Service's determination that the death is in the Line-of-Duty -- Yes or No.

DFAS shall establish and pay SBP annuities to qualified survivors for qualified deaths as prescribed above.

The Office of the Under Secretary of Defense (Personnel and Readiness) in conjunction with the military services will convene a DoD Joint Service review board to review Line-of-Duty findings for consistency and uniformity among the military services after approximately one year of experience with the statute. This review board will make recommendations as appropriate to ensure consistency and uniformity.

## MEMORANDUM FOR ARMY RETIREMENT SERVICES OFFICERS (RSO)

SUBJECT: Supplemental Guidance for Army Use—Survivor Benefit Plan (SBP) Annuities when Member Dies on Active Duty

1. The information that follows amplifies portions of DOD's implementing guidance, dated 1 May 2002, subject as above (see Encl 1). Recommend you read the DOD guidance first; then digest this Army guidance. While P.L. 107-107 was *effective* on 28 Dec 2001, Section 642 is *retroactive* to **10 Sep 2001**, and applies to all active duty deaths since that date.

2. Topics are presented in the same order in both documents: General, Qualified Deaths, Qualified Annuitants, Annuity Amounts, Line of Duty (LOD) Determinations, and Responsibilities.

a. **General.** The key phrase is *expanded benefit* (in Line 1). What has *expanded* is the pool of eligible soldiers who receive a benefit. Prior to passage of Sect. 642, P.L. 107-107, only soldiers who died on active duty *after* becoming retirement-eligible provided an SBP annuity to *qualified* survivors. Now, ALL soldiers who die on active duty share that entitlement. LOD findings are a factor, and are explained separately.

b. **Qualified Deaths.**

(1) ALL deaths on active duty are *qualifying deaths* **unless:** the member was not retirement-eligible **and** death was determined to be LOD-NO. If the soldier who dies on active duty IS retirement-eligible, it is a qualifying death regardless of LOD findings. However, SBP amounts are impacted. See *Table 2*.

(2) Reserve Component (RC) Soldiers. The same provisions apply to RC soldiers who die while serving ON ACTIVE DUTY. If they die while in an "Inactive Duty for Training (IDT)" status, they do not qualify. "Retirement-eligible" RC soldiers are those who have received their Letter of Notification of Eligibility for Retired Pay at Age 60 (*i.e.*, "20-year letter").

**- Table 1 -  
(LOD and SBP)**

<i>Years of Qualifying Service</i>	<i>Line of Duty-- Yes or No?</i>	<i>SBP Payable? (To Eligible Beneficiaries)</i>
Less than 20	LOD-Yes	Yes
Less than 20	LOD-No	No
More than 20	LOD - Yes	Yes
More than 20	LOD - No	Yes

**c. Qualified Annuitants.**

(1) Relation to Death Imminent Retirement Processing. Do not confuse WHO is eligible for SBP under **this** law with what occurs as a result of "death imminent retirement" processing. Soldiers who die on active duty are not retired. We do not make an SBP election on their behalf. Instead, the law DIRECTS who is eligible and in what amount. Certain SBP election options that exist under death imminent retirement scenarios do not exist under this law (e.g., insurable interest for a parent; Supplemental SBP; and child only coverage when there is a spouse). The Army is considering their position now on continuing death imminent processing. You will be informed of the final policy. DOD will consider the Services' positions and make a recommendation to Congress on this topic in July 2002. As of this date, the Army continues expeditious retirements.

(2) Title 10, U.S. Code. This law (Chap. 73) identifies WHO is a qualified SBP annuitant under death-on-active-duty circumstances, just as it did prior to this law change for active duty deaths of *retirement-eligible soldiers*.

(3) The ONLY qualified SBP beneficiaries are:

- Spouse
- Children (if no spouse or former spouse)
- Former Spouse (if court order/written agreement exists)

(4) Child Eligibility. Unlike normal SBP, a child, when part of "spouse/FS and child" coverage, can ONLY receive SBP if the parent **dies** -- **not** if the parent becomes ineligible due to remarriage before age 55 -- even though the child remains eligible. And, of course, if there is no spouse or FS, "child only" coverage is established by law.

(5) Former Spouse Coverage.

(a) It is important that the soldier's records are closely examined for evidence of court-ordered former spouse SBP coverage. Typically, such an order would exist with "senior" soldiers - those who on date of divorce/agreement, the court considered well-vested in a military career.

(b) If such an order/agreement is uncovered, the former spouse must receive the annuity (if eligible). Under a former spouse election, only the soldier's children from his/her union with the former spouse are qualified.

(c) Why is it important to exert effort in uncovering an existing former spouse order? There are two main reasons: 1) it complies with the court's intent; and 2) it saves potential duplicate payments by the government. If the government incorrectly pays a surviving spouse, and an eligible former spouse later applies, the government likely first, would opt *not* to collect back the incorrectly paid spouse annuity; and second, would be obligated to pay the former spouse retroactively -- resulting in a double payment.

(d) The former spouse eligibility provision is not new. This has always been the case with active duty deaths of retirement-eligible members. We simply reemphasize it.

d. **Annuity Amounts.**

(1) The SBP annuity is 55% (or 35% if over age 62) of the soldier's retired pay "entitlement," as if the soldier had been retired for total disability (i.e., using a 75% multiplier). The exception is the case of a retirement-eligible soldier who dies under LOD-No conditions, in which case the multiplier is derived from actual years/months of service. (See sample below.)

(2) LOD determinations affect the annuity as follows:

- Retirement-Eligible; LOD-Yes: Final Pay (or high-36) X 75%; Retired Pay "entitlement" X 55% (or 35%) = SBP Annuity.
- Retirement-Eligible; LOD-No: Final Pay (or high-36) X multiplier based on years/months of service (e.g., 20 years = 50%); Retired Pay "entitlement" X 55% (or 35%) = SBP Annuity.
- NOT Retirement-Eligible; LOD-Yes: Final Pay (or high-36) X 75%; Retired Pay "entitlement" X 55% (or 35%) = SBP Annuity
- NOT Retirement-Eligible; LOD-No: No SBP Annuity Payable!



**- Table 2 -  
(LOD-Related Examples)**

LOD (Y/N)	Grade	Yrs/Mos Svc	DIEMS Date	Final Pay/ High-36	Multiplier	Ret Pay Entit	SBP Amount	DIC Amount	SBP Left After DIC Offset
Y	E3	2/0	1 May 00	\$1000	.75	\$750	\$412	\$935	\$0
N	E3	2/0	1 May 00	\$1000	N/A	N/A	N/A	\$935*	N/A
Y	E8	22/0	1 May 80	\$3573	.75	\$2679	\$1473	\$935	\$538
N	E8	22/0	1 May 80	\$3573	.55	\$1965	\$1080	\$935*	\$145

(3) Career Status Bonus (CSB) Receipt Implications. If a soldier received the CSB, the normal reductions to the multiplier that would have been applied to the soldier's retired pay, are not applied to the annuitant. However, reduced cost-of-living adjustments (COLAs) for spouses of soldiers who received the CSB are applied to the annuity just as they would have to retired pay.

(4) Supplemental SBP (SSBP). SSBP is not payable in any active-duty death situation.

(5) Dependency & Indemnity Compensation (DIC). The VA's DIC offsets SBP annuities dollar-for-dollar to spouses. Both SBP and DIC to children are fully payable.

e. **Line-of-Duty (LOD) Determinations**.

(1) DOD has given the Services some leeway by allowing them to develop their own processes to meet Congress's direction regarding LOD. These requirements must be met by the Services:

- Describe circumstances under which the member died.
- Address whether the death was caused by the member's own intentional or willful negligence.
- Address whether the death occurred during a period of unauthorized absence.

(2) Army will apply its own regulatory guidance and procedures. A Joint Service Review Board will audit the Services within one year for uniformity and consistency.

**\* LOD-No may or may not result in a denial of DIC by the VA.**

f. **Responsibilities.**

(1) DA Casualty & Memorial Affairs Operations Center:

- Will render LOD findings in which the circumstances are clearly in line of duty. In cases where the circumstances are questionable, the deceased soldier's commander will be required to conduct a LOD investigation.
- Will coordinate with DA Officer Retirement/Separations Section and EREC, Indianapolis, IN, in preparing statements of service.
- Will provide the statement of service and the record of determination to DFAS-Cleveland Center (DFAS-CL); DFAS-CL POC: Army Liaison.
- Will ascertain whether there are survivors for SBP.
- DA Casualty POC: Mr. Homer Henderson, 703-325-6047; DSN 221-6047; [Homer.Henderson@hoffman.army.mil](mailto:Homer.Henderson@hoffman.army.mil).

(2) Commanders:

- Will conduct LOD investigations on death cases, as required.

(3) DFAS-Cleveland Center (DFAS-CL):

- Will establish pay accounts and provide account data to appropriate DFAS personnel.  
-- Note: Responsibility for establishing and maintaining both retiree *and* annuitant accounts is scheduled to consolidate at the Cleveland pay center. Proposed transfer dates from the Denver center to Cleveland are: New Accounts, NLT 30 Jul 02; All Accounts, NLT 30 Aug 02. These dates are subject to change.
- Will suspense annuity applications received from families if prior to account establishment, and process them at the first opportunity.

(4) Retirement Services Officers (RSO):

- Will estimate pay entitlement and SBP annuity amounts for the Casualty Assistance Officer (CAO) and/or survivors.
- Will provide personnel information as requested by DA Casualty and/or DFAS.
- Will counsel CAOs and families residing in their area of responsibility on SBP and associated government benefits.

3. HQDA POC is Avis Allen, CML (703)325-2695; DSN 221-2695; email [Avis.Allen@hoffman.army.mil](mailto:Avis.Allen@hoffman.army.mil).

// signed //

Encls

JOHN W. RADKE  
Chief, Army Retirement  
Services

## APPENDIX G

THIS MESSAGE HAS BEEN SENT BY THE PENTAGON TELECOMMUNICATIONS CENTER ON BEHALF OF DA WASHINGTON DC//DAPE-MSO//

SUBJECT: FAMILY SERVICEMEMBERS GROUP LIFE INSURANCE (FSGLI) COVERAGE DEBT REDUCTION

### 1. REFERENCES:

A. MEMORANDUM, UNDER SECRETARY OF DEFENSE, (PERSONNEL AND READINESS), SERVICEMEMBERS GROUP LIFE INSURANCE FAMILY COVERAGE, DATED 8 FEBRUARY 2005.

B. MEMORANDUM, OFFICE OF THE UNDER SECRETARY OF DEFENSE, (PERSONNEL AND READINESS), FAMILY SERVICEMEMBERS GROUP LIFE INSURANCE COVERAGE (FSGLI), DATED 27 MAY 2005.

C. LEADER/COMMANDER/1SG CHECKLIST AVAILABLE AS AN ATTACHMENT TO THIS MESSAGE.

2. PURPOSE. THIS MESSAGE HAS BEEN APPROVED FOR RELEASE BY THE VICE CHIEF OF STAFF OF THE ARMY (VCSA). THE PURPOSE OF THIS MESSAGE IS TO INFORM SOLDIERS AND COMMANDS IN ALL COMPONENTS WITHIN THE ARMY OF THEIR FSGLI REQUIREMENTS, AND TO ESTABLISH ARMY S PROCEDURES FOR COLLECTING PAST DUE FSGLI PREMIUMS FROM SOLDIERS WHO RECEIVED FSGLI COVERAGE WITHOUT PAYING THE PREMIUMS.

ADDITIONALLY, THIS MESSAGE TASKS NATIONAL GUARD BUREAU (NGB), OFFICE OF THE CHIEF OF THE ARMY RESERVE (OCAR), ALL ARMY COMMANDS, ARMY SERVICE COMPONENT COMMANDS (ASCC), DIRECT REPORTING UNITS (DRU), INSTALLATION MANAGEMENT COMMAND (IMCOM), AND HUMAN RESOURCES COMMAND (HRC) WITH PROVIDING AN ACTION OFFICER (AO) TO ASSIST IN COLLECTING BACK FSGLI PREMIUMS OWED TO DEPARTMENT OF VETERANS AFFAIRS (DVA).

3. RECENT ANALYSES BY BOTH THE DVA AND DEFENSE FINANCE AND ACCOUNTING SERVICE (DFAS) INDICATE THAT A NUMBER OF SERVICE MEMBERS ARE RECEIVING FSGLI COVERAGE BUT ARE NOT PAYING PREMIUMS AS REQUIRED. THIS SITUATION IS ALMOST ENTIRELY DUE TO INCOMPLETE DEFENSE ENROLLMENT ELIGIBILITY REPORTING SYSTEM (DEERS) DOCUMENTATION. AS DEERS IS THE DATA SOURCE TO DETERMINE ENROLLMENT FOR FSGLI, ACCURATE DEPENDENT DATA IS VITAL. SERVICE MEMBERS MUST REPORT ALL DEPENDENTS IN DEERS, INCLUDING A SPOUSE WHO IS ALSO A MILITARY MEMBER, EVEN THOUGH EACH SPOUSE IS ALREADY ENROLLED IN DEERS IN HIS OR HER OWN RIGHT AS A MILITARY MEMBER.

4. INDICATIONS ARE THAT THE DVA MAY BE OWED AS MUCH AS \$25 MILLION IN BACK PREMIUMS BECAUSE OF INCOMPLETE DEERS DATA. THE DVA HAS REQUESTED THE DEPARTMENT OF DEFENSE (DOD), THE DEPARTMENT OF THE ARMY (DA), AND THE OTHER SERVICES ASSIST IN GETTING SPOUSES PROPERLY REGISTERED IN DEERS AND ASSIST WITH COLLECTING BACK PREMIUMS. COLLECTION OF PREMIUMS OWED WILL BE ACCOMPLISHED BY DFAS AS MEMBERS WITH UNREGISTERED SPOUSES ARE IDENTIFIED AND ENROLLED IN DEERS.

5. ALL SOLDIERS, REGARDLESS OF COMPONENT OR STATUS (TO INCLUDE DUAL MILITARY COUPLES) ARE ELIGIBLE FOR FSGLI AND ARE AUTOMATICALLY COVERED BY FSGLI UNLESS THEY DECLINE THE COVERAGE IN WRITING. TO PROPERLY DECLINE FSGLI, SOLDIERS MUST FILE SGLV FORM 8286A AT THEIR SUPPORTING PERSONNEL AND OR DEERS OFFICE. ALTHOUGH COVERAGE FOR CHILDREN IS WITHOUT COST TO THE SOLDIER, PREMIUMS MUST BE PAID FOR SPOUSES WHO ARE NOT AFFIRMATIVELY DISENROLLED FROM THE FSGLI PROGRAM. SOLDIERS WILL NOT SUBMIT RETROACTIVE DECLINATIONS. BACK DATING AND SIGNING SGLV FORM 8286A TO AVOID PAYING BACK PREMIUMS IS NOT AUTHORIZED. EACH MARRIED SOLDIER WHO IS NOT PAYING FSGLI PREMIUMS, AND HAS NOT DECLINED COVERAGE IN WRITING (OR CANNOT PROVE THEY HAVE DECLINED BY PROVIDING A COPY OF THEIR SIGNED DECLINATION STATEMENT) OWES BACK PREMIUMS. THIS INCLUDES SOLDIERS WHO WERE MARRIED AFTER THE EFFECTIVE DATE OF THE FSGLI PROGRAM AND WHO ARE NO LONGER MARRIED, BUT WHOSE SPOUSES WERE NOT AFFIRMATIVELY DISENROLLED WHILE THEY WERE MARRIED.

6. DUAL MILITARY COUPLES. A DUAL MILITARY COUPLE IS DEFINED AS SOLDIER MARRIED TO SOLDIER OR SOLDIER MARRIED TO A MEMBER OF THE OTHER ARMED SERVICES IN ANY COMPONENT COMBINATION. TO ENSURE THAT BOTH SPOUSES IN A DUAL MILITARY COUPLE ARE ENROLLED AUTOMATICALLY IN THE FSGLI PROGRAM, DEPARTMENT OF DEFENSE FINANCIAL MANAGEMENT REGULATION 7000.14-R REQUIRES BOTH SPOUSES TO REGISTER EACH OTHER IN DEERS. ONCE A SOLDIER ENROLLS HIS OR HER SPOUSE IN DEERS, THE MILITARY PAY SYSTEMS WILL AUTOMATICALLY BEGIN DEDUCTING PREMIUMS FROM THAT SOLDIER S PAY.

7. RESERVE COMPONENT MEMBERS. WITH THE ONGOING GLOBAL WAR ON TERRORISM, QUITE FREQUENTLY, RESERVE COMPONENT (RC) SOLDIERS ARE CHANGING FROM DRILLING TO MOBILIZED ACTIVE DUTY STATUS AND BACK AGAIN. THERE HAVE BEEN INSTANCES WHERE FSGLI PREMIUMS WERE MISTAKENLY AND UNKNOWINGLY STOPPED AS A RESULT OF THESE TYPE STATUS CHANGES. AS A RESULT, IT IS PARAMOUNT THAT RC MEMBERS VERIFY THEIR FSGLI STATUS EVERY TIME THEY CHANGE STATUS.

8. TASKING. BY NO LATER THAN (NLT) 7 DAYS AFTER THE RELEASE OF THIS MESSAGE, NGB, OCAR, ALL ARMY COMMANDS, ASCC, DRU, IMCOM, AND HRC ARE TASKED WITH PROVIDING AN ACTION OFFICER (AO) IN THE GRADE OF 03-05, W2-W4, OR GS11-GS14 TO WORK WITH THE ARMY STAFF POINT OF CONTACT (POC) IN PARAGRAPH 15 TO ENSURE ALL SOLDIERS HAVE COMPLETED ALL FSGLI REQUIREMENTS.

REPORT ACTION OFFICERS TO THE ARMY STAFF POC IN PARAGRAPH 15 AND TO THE PERSONNEL CONTINGENCY CELL (PCC) OF THE ARMY OPERATIONS CENTER (AOC) AT THE FOLLOWING EMAIL ADDRESS: PCCIMA02@hqda-aoc.army.pentagon.mil.

9. MISMATCH DATA BASE. ARMY STAFF POC WILL PROVIDE A MISMATCH DATA BASE BY COMPONENT TO EACH AO. THERE ARE THREE MISMATCH DATA BASES (1 ACTIVE DUTY, 1 RESERVE, AND 1 NATIONAL GUARD). THE DATA BASES IDENTIFY SOLDIERS WHOSE MARITAL STATUS IN DEERS DOES NOT MATCH THEIR MARITAL STATUS IN THE TOTAL ARMY PERSONNEL DATA BASE (TAPDB). SOLDIERS APPEARING IN THE MISMATCH DATA BASES MAY OWE PAST DUE FSGLI PREMIUMS. ACTION OFFICERS MAY USE THE MISMATCH DATA BASES HOWEVER THEY DEEM APPROPRIATE TO FACILITATE THEIR COMMANDS NOTIFICATION EFFORTS.

10. LEADER/COMPANY COMMANDER/1SG CHECKLIST. THIS CHECKLIST IS ATTACHED TO THIS MESSAGE. IT IS DESIGNED TO ASSIST LEADERS AT ALL LEVELS IN IDENTIFYING SOLDIERS WHO OWE PAST DUE FSGLI PREMIUMS. IT IS SET UP IN A QUESTION/ANSWER FORMAT AND ALLOWS USERS TO QUICKLY ASSESS WHETHER A SOLDIER NEEDS TO UPDATE THEIR SPOUSAL DATA IN DEERS TO BEGIN FSGLI PREMIUM DEDUCTION.

11. REQUIREMENT. EFFECTIVE WHEN THIS MESSAGE IS RELEASED, ALL ARMY ORGANIZATIONS TASKED WITH PROVIDING AN AO WILL USE THE LEADER/COMPANY COMMANDER CHECKLIST TO CONDUCT A 100% REVIEW OF THEIR SOLDIERS FSGLI STATUS. THE CHECKLIST WILL BE USED AS A TOOL AT LOWEST ECHELON OF LEADERSHIP/COMMAND TO ENSURE EVERY MARRIED SOLDIER IN THE ARMY HAS CORRECTLY REPORTED THEIR SPOUSE IN DEERS. END STATE IS ALL MARRIED SOLDIERS WHO HAVE NOT DECLINED FSGLI COVERAGE MUST PAY (ASSUMING A WAIVER SUBMISSION FAILS) ALL PAST DUE FSGLI PREMIUMS, BE CURRENTLY PAYING FSGLI PREMIUMS OR HAVE PROPERLY DECLINED FSGLI COVERAGE. FOR THE ARMY STAFF AND STAFFS OF ALL ORGANIZATIONS TASKED, DIVISION/STAFF CHIEFS AT THE COL/GS EQUIVALENT LEVEL WILL ENSURE THEIR SOLDIERS COMPLIANCE. NLT 120 DAYS AFTER THE

RELEASE OF THIS MESSAGE, THE SAME TASKED ORGANIZATIONS WILL REPORT COMPLETION OF THIS ACTION TO THE PCC OF THE AOC AT THE FOLLOWING EMAIL ADDRESS: PCCIMA02@hqda-aoc.army.pentagon.mil. ARMY STAFF POC WILL WORK WITH ACTION OFFICERS TO DEVISE A TRACKING AND REPORTING MECHANISM FOR MONITORING PROGRESS.

12. DEPLOYED UNITS. DEPLOYED UNITS WILL CONDUCT THE FSGLI REVIEW (DESCRIBED IN PARAGRAPH 11) AS THEIR MISSION ALLOWS AND WILL WORK THROUGH THEIR REAR DETACHMENTS IN COMPLETING THIS REQUIREMENT. IF A DEPLOYED SOLDIER IS IDENTIFIED TO ENROLL HIS/HER SPOUSE IN DEERS, AND WORKING THRU THE REAR DETACHMENT IS NOT FEASIBLE, THE SOLDIER MUST PREPARE SGLV FORM 8286A (FSGLI COVERAGE ELECTION FORM). BY PREPARING SGLV FORM 8286A, THE SOLDIER EITHER INITIATES SPOUSE ENROLLMENT IN FSGLI OR DECLINES FSGLI COVERAGE (RETROACTIVE DECLINATION TO AVOID PAYING PAST DUE PREMIUMS IS NOT AUTHORIZED) AND TRANSMITS THIS FORM TO THEIR BRIGADE LEVEL S-1 FOR PROCESSING. THE BRIGADE LEVEL S-1 WILL TRANSMIT THE SOLDIER S COMPLETED SGLV FORM 8286A BY THE MOST EXPEDIENT MEANS TO MR. DAVID PULLIAM, HUMAN RESOURCES COMMAND (HRC), BENEFITS AND CLAIMS MANAGER AT PHONE 703-325-6047, FAX 703-325-3288, OR EMAIL david.pulliam1@hoffman.army.mil; OR david.pulliam1@us.army.mil. DEPENDING ON THE SOLDIER S INDIVIDUAL CIRCUMSTANCES, MR. PULLIAM WILL ADVISE THE BRIGADE LEVEL S-1 FROM THAT POINT FORWARD ON WHAT ACTION TO TAKE. A DEPLOYED SOLDIER MUST IMMEDIATELY TAKE STEPS TO ENSURE THEIR FSGLI COVERAGE IS UPDATED BECAUSE DELAYING SPOUSAL ENROLLMENT WILL ALLOW ADDITIONAL UNPAID PREMIUMS TO ACCUMULATE AND THE SOLDIER S DEBT TO INCREASE.

13. ARMY DEBT PRORATION RULES. IN PAYING BACK PREMIUMS OWED, ALL ARMY SOLDIERS (ACTIVE, GUARD, OR RESERVE REGARDLESS OF COMPONENT) ARE SUBJECT TO THE DEBT PRORATION RULES IMMEDIATELY BELOW. THESE DEBT PRORATION RULES TAKE EFFECT THE MILITARY PAY PROCESSING MONTH THIS MESSAGE IS ISSUED.

A. DEBTS LESS THAN \$10.00 ARE COLLECTED IN FULL.

B. DEBTS FROM \$10.00 TO \$71.99 ARE PRORATED OVER 3 MONTHS.

C. DEBTS GREATER THAN \$72.00 ARE PRORATED AS FOLLOWS:

(1) ACTIVE COMPONENT SOLDIERS: \$30.00 PER MONTH IS COLLECTED UNTIL THE DEBT IS PAID IN FULL.

(2) RESERVE COMPONENT SOLDIERS: \$1.00 PER DAY IS COLLECTED UNTIL THE DEBT IS PAID IN FULL(\*NOTE FOR A FULL TIME RESERVIST, \$1.00 PER DAY EQUATES TO \$30.00 A MONTH, FOR A DRILLING RESERVIST, \$1.00 PER DAY EQUATES TO \$4.00 A MONTH.)

14. ARMY S DEBT WAIVER PROCESS. OFFICERS AND ENLISTED SOLDIERS MAY REQUEST WAIVER OF THE GOVERNMENT S CLAIMS FOR RECOVERY OF OVERPAYMENTS, SINCE THE GOVERNMENT HAS OVERPAID CERTAIN SOLDIERS BY NOT DEDUCTING PREMIUMS.

SOLDIERS CAN SUBMIT DD FORM 2789 (FORM FOUND AT THE FOLLOWING LINK:

<http://www.dtic.mil/whs/directives/infomgt/forms/forminfo/forminfopage2342.html>),

WAIVER/REMISSION OF INDEBTEDNESS APPLICATION IN ACCORDANCE WITH (IAW) THE INSTRUCTIONS ON THE FORM. THE SOLDIER COMPLETES PAGE 1 OF THE FORM AND THE SOLDIER S SUPPORTING FINANCE OFFICE COMPLETES PAGE 2. THE SUPPORTING FINANCE OFFICE ALSO TRANSMITS THE FORM TO DFAS-DENVER ON BEHALF OF THE SOLDIER REQUESTING WAIVER. SOLDIERS CANNOT TRANSMIT THEIR DD FORM 2789 DIRECTLY TO DFAS-DENVER. ARMY RESERVE SOLDIERS SUPPORTING FINANCE OFFICE IS: DFAS-IN, ATTN: AR LIAISON ACTIVITY, ROOM 122T, 8899 E. 56TH ST., INDIANAPOLIS, IN 46249 OR DIGITALLY SEND TO: [ccin-arliason@dfas.mil](mailto:ccin-arliason@dfas.mil).

NATIONAL GUARD SOLDIERS SUPPORTING FINANCE OFFICE IS THEIR SUPPORTING U.S. PROPERTY AND FISCAL OFFICER (USPFO).

TO REQUEST DEBT WAIVER, SOLDIERS OF ALL COMPONENTS MUST USE THE ABOVE PROCESS BECAUSE ONLY DFAS-DENVER ON BEHALF OF DOD CAN WAIVE PAST DUE FSGLI PREMIUMS. ARMY AGENCIES DO NOT HAVE THIS AUTHORITY. SUBMITTING THIS ACTION DOES NOT GUARANTEE PAST DUE PREMIUMS WILL BE WAIVED. THE SOLDIER IS STILL ULTIMATELY RESPONSIBLE FOR PAYING ANY PAST DUE PREMIUMS UNLESS FORMALLY RELIEVED OF RESPONSIBILITY BY DFAS-DENVER. SOLDIERS HAVE 120 DAYS FROM THE RELEASE OF THIS MESSAGE TO REQUEST WAIVER. AFTER 120 DAYS IF SOLDIERS DO NOT REQUEST WAIVER, ANY DEBT SUSPENDED BY DFAS WILL BE RELEASED AND COLLECTED IN ACCORDANCE WITH THE DEBT PRORATION RULES FOUND IN PARAGRAPH 13 OF THIS MESSAGE. SOLDIERS CANNOT REQUEST WAIVER FOR FSGLI PREMIUMS PREVIOUSLY DEDUCTED FROM THEIR PAY.

15. THE ARMY STAFF POC WORKING THIS ACTION IS LTC VOITHOFER AT DSN 222-6889, CML (703) 692-6889 OR [MATTHEW.VOITHOFER@HQDA.ARMY.MIL](mailto:MATTHEW.VOITHOFER@HQDA.ARMY.MIL).

16. EXPIRATION DATE CANNOT BE DETERMINED.

## APPENDIX H

These numbers are now available and tailored to the individual at  
<http://myarmybenefits.us.army.mil>

**Family Information/Service Data**

**NAME: SSG Sample A Only**      123-45-6789

	MM	DD	YYYY
DATE OF BIRTH	01	/ 02	/ 1974
DATE INITIAL ENTRY MILITARY SERVICE	10	/ 05	/ 1994
PAY ENTRY BASE DATE	01	/ 05	/ 1995
1405 DATE	01	/ 25	/ 1995
BASIC ACTIVE SERVICE DATE	02	/ 05	/ 1995
DATE OF PROMOTION	03	/ 01	/ 2007

	FIRST NAME	DOB
SPOUSE	VIRGINIA	02 / 01 / 1976
CHILDREN	FRED	05 / 01 / 2002
	JAN	04 / 01 / 1999
	BRYAN	03 / 08 / 1996

Based on data provided, SSG SAMPLE A ONLY's death on 1 June 2008  
(Svc-Connected) (LOD=Yes) would provide these benefits to the family:

<u>Reason for Change</u>	<u>Family Benefits</u>			=	<u>Monthly Total</u>	<u>Annual Total</u>	
	<u>SS</u>	<u>+</u>	<u>DIC</u>	<u>+</u>	<u>SBP</u>		
Current Benefit    Jun-2008	\$2259	+	@1883	+	\$31	=	4,173    50,076
DIC Extra Ends    Jun-2010	2259	+	1633	+	\$31	=	3,923    47,076
Bryan is 18        Mar-2014	1858	+	1362	+	\$31	=	3,251    39,012
Jan is 16          Apr-2015	929	+	1362	+	\$31	=	2,322    27,864
Jan is 18          Apr-2017	0	+	1091	+	\$31	=	1,122    13,464
Virginia is 62    Feb-2037	986	+	1091	+	\$31	=	2,108    25,296

**Lump Sum funds available to designated beneficiaries:**

Social Security Death Benefit	\$255
Death Gratuity	\$100,000
SGLI (Assumed)	\$400,000
	-----
Total	\$500,255

@DIC Extra \$250 until earliest of 2 yrs after death or youngest child age 18.

While SS, DIC, and SBP are adjusted for inflation by law, the amounts above are in today's dollars.

The Lump Sum funds shown above only reflect legislated entitlements. Payments will be made to the designated beneficiaries as elected in official records.

SBP amount is zero because DIC (VA) entitlement is greater than SBP (\$1027).



The Benefits Analysis Report is an estimate based on the most recent information available. Your official benefit amounts will be calculated by the appropriate agencies (Defense Finance and Accounting Service, Social Security, and Department of Veterans Affairs) and will be determined upon your application for the benefits.

**Department of Veterans Affairs Education Benefits**

**Dependent Education Assistance (DEA)**

Recipients	From	Age	Until	Age	
Virginia	11-Feb-2007	32	11-Feb-2027	52	45mos X \$881 = \$39,645
Bryan	8-Mar-2014	18	8-Mar-2022	26	45mos X \$881 = \$39,645
Jan	1-Apr-2017	18	1-Apr-2025	26	45mos X \$881 = \$39,645

Current full time student rate is \$ 881 per month as of Oct 2007.  
 Maximum number of school months is 45 (undergraduate or graduate).  
 Spouse must be unmarried - Children may be married.  
 DEA not paid if attending a federally funded academy or while on active duty.

**Family Information/Service Data**

**NAME: CPT Sample A Only**      123-45-6789

	MM	DD	YYYY
DATE OF BIRTH	01	/ 01	/ 1977
DATE INITIAL ENTRY MILITARY SERVICE	12	/ 01	/ 1998
PAY ENTRY BASE DATE	01	/ 05	/ 1999
1405 DATE	01	/ 05	/ 1999
BASIC ACTIVE SERVICE DATE	01	/ 05	/ 1999
DATE OF PROMOTION	02	/ 01	/ 2006

	FIRST NAME	DOB
SPOUSE	JANE	01 / 02 / 1979
CHILDREN	SUSAN	01 / 04 / 2005
	JAMES	01 / 03 / 2002

Based on data provided, CPT SAMPLE A ONLY's death on 1 June 2008 (Svc-Connected) (LOD=Yes) would provide these benefits to the family:

<u>Reason for Change</u>	<u>Family Benefits</u>			=	<u>Monthly</u>	<u>Annual</u>		
	<u>SS</u>	<u>+</u>	<u>DIC</u>		<u>+</u>	<u>SBP</u>	<u>Total</u>	<u>Total</u>
Member's death      Jun-2008	\$3180	+	@1883	+	\$780	=	\$5,843	70,116
DIC Extra Ends      Feb-2010	3180	+	1663	+	780	=	5,593	67,116
James is 18          Jan-2020	2726	+	1362	+	780	=	4,868	58,416
Susan is 16          Jan-2021	1363	+	1362	+	780	=	3,505	42,060
Susan is 18          Jan-2023	0	+	1091	+	780	=	1,871	22,452
Jane is 62            Jan-2041	1447	+	1091	+	780	=	3,318	39,816

**Lump Sum funds available to designated beneficiaries:**

Social Security Death Benefit	\$255
Death Gratuity	\$100,000
SGLI (Assumed)	\$400,000
	-----
Total	\$500,255

@DIC Extra \$250 until earliest of 2 yrs after death or youngest child age 18.

While SS, DIC, and SBP are adjusted for inflation by law, the amounts above are in today's dollars.

The Lump Sum funds shown above only reflect legislated entitlements. Payments will be made to the designated beneficiaries as elected in official records.

The Benefits Analysis Report is an estimate based on the most recent information available. Your official benefit amounts will be calculated by the appropriate agencies (Defense Finance and Accounting Service, Social Security, and Department of Veterans Affairs) and will be determined upon your application for the benefits.

**Department of Veterans Affairs Education Benefits**

**Dependent Education Assistance (DEA)**

Recipients	From	Age	Until	Age		
Jane	11-Feb-2007	28	11-Feb-2027	48	45mos X \$881 =	\$39,645
James	3-Jan-2020	18	3-Jan-2028	26	45mos X \$881 =	\$39,645
Susan	4-Jan-2023	18	4-Jan-2031	26	45mos X \$881 =	\$39,645

Current full time student rate is \$ 881 per month as of Oct 2007.      \$118,935  
Maximum number of school months is 45 (undergraduate or graduate).  
Spouse must be unmarried - Children may be married.  
DEA not paid if attending a federally funded academy or while on active duty.



**Department of Veterans Affairs Education Benefits**

**Dependent Education Assistance (DEA)**

Recipients	From	Age	Until	Age		
Susan	11-Feb-2007	42	11-Feb-2027	62	45mos X \$881 =	\$39,645
John	1-Feb-2010	18	1-Feb-2018	26	45mos X \$881 =	\$39,645
Jan	10-Feb-2011	18	10-Feb-2019	26	45mos X \$881 =	\$39,645

Current full time student rate is \$ 880 per month as of Oct 2007.      \$118,935  
Maximum number of school months is 45 (undergraduate or graduate).  
Spouse must be unmarried - Children may be married.  
DEA not paid if attending a federally funded academy or while on active duty.