

§ 404.725 Evidence of a valid ceremonial marriage.

(a) *General.* A valid *ceremonial marriage* is one that follows procedures set by law in the State or foreign country where it takes place. These procedures cover who may perform the marriage ceremony, what licenses or witnesses are needed, and similar rules. A ceremonial marriage can be one that follows certain tribal Indian custom, Chinese custom, or similar traditional procedures. We will ask for the evidence described in this section.

(b) *Preferred evidence.* Preferred evidence of a ceremonial marriage is—

(1) If you are applying for wife's or husband's benefits, signed statements from you and the insured about when and where the marriage took place. If you are applying for the lump-sum death payment as the widow or widower, your signed statement about when and where the marriage took place; or

(2) If you are applying for any other benefits or there is evidence causing some doubt about whether there was a ceremonial marriage: a copy of the public record of marriage or a certified statement as to the marriage; a copy of the religious record of marriage or a certified statement as to what the record shows; or the original marriage certificate.

(c) *Other evidence of a ceremonial marriage.* If preferred evidence of a ceremonial marriage cannot be obtained, we will ask you to explain why and to give us a signed statement of the clergyman or official who held the marriage ceremony, or other convincing evidence of the marriage.

§ 404.726 Evidence of common-law marriage.

(a) *General.* A *common-law marriage* is one considered valid under certain State laws even though there was no formal ceremony. It is a marriage between two persons free to marry, who consider themselves married, live together as man and wife, and, in some States, meet certain other requirements. We will ask for the evidence described in this section.

(b) *Preferred evidence.* Preferred evidence of a common-law marriage is—

(1) If both the husband and wife are alive, their signed statements and those of two blood relatives;

(2) If either the husband or wife is dead, the signed statements of the one who is alive and those of two blood relatives of the deceased person; or

(3) If both the husband and wife are dead, the signed statements of one blood relative of each;

NOTE: All signed statements should show why the signer believes there was a marriage between the two persons. If a written statement cannot be gotten from a blood relative, one from another person can be used instead.

(c) *Other evidence of common-law marriage.* If you cannot get preferred evidence of a common-law marriage, we will ask you to explain why and to give us other convincing evidence of the marriage. We may not ask you for statements from a blood relative or other person if we believe other evidence presented to us proves the common-law marriage.

§ 404.727 Evidence of a deemed valid marriage.

(a) *General.* A *deemed valid marriage* is a ceremonial marriage we consider valid even though the correct procedures set by State law were not strictly followed or a former marriage had not yet ended. We will ask for the evidence described in this section.

(b) *Preferred evidence.* Preferred evidence of a deemed valid marriage is—

(1) Evidence of the ceremonial marriage as described in § 404.725(b)(2);

(2) If the insured person is alive, his or her signed statement that the other party to the marriage went through the ceremony in good faith and his or her reasons for believing the marriage was valid or believing the other party thought it was valid;

(3) The other party's signed statement that he or she went through the marriage ceremony in good faith and his or her reasons for believing it was valid;

(4) If needed to remove a reasonable doubt, the signed statements of others who might have information about what the other party knew about any previous marriage or other facts showing whether he or she went through the marriage in good faith; and

(5) Evidence the parties to the marriage were living in the same household

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when you applied for benefits or, if earlier, when the insured person died (see § 404.760).

(c) *Other evidence of a deemed valid marriage.* If you cannot obtain preferred evidence of a deemed valid marriage, we will ask you to explain why and to give us other convincing evidence of the marriage.

§ 404.728 Evidence a marriage has ended.

(a) *When evidence is needed that a marriage has ended.* If you apply for benefits as the insured person's divorced wife or divorced husband, you will be asked for evidence of your divorce. If you are the insured person's widow or divorced wife who had remarried but that husband died, we will ask you for evidence of his death. We may ask for evidence that a previous marriage you or the insured person had was ended before you married each other if this is needed to show the latter marriage was valid. If you apply for benefits as an unmarried person and you had a marriage which was annulled, we will ask for evidence of the annulment. We will ask for the evidence described in this section.

(b) *Preferred evidence.* Preferred evidence a marriage has ended is—

(1) A certified copy of the decree of divorce or annulment; or

(2) Evidence the person you married has died (see § 404.720).

(c) *Other evidence a marriage has ended.* If you cannot obtain preferred evidence the marriage has ended, we will ask you to explain why and to give us other convincing evidence the marriage has ended.

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EVIDENCE FOR CHILD'S AND PARENT'S BENEFITS

§ 404.730 When evidence of a parent or child relationship is needed.

If you apply for parent's or child's benefits, we will ask for evidence showing your relationship to the insured person. What evidence we will ask for depends on whether you are the insured person's natural parent or child; or whether you are the stepparent, step-

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child, grandchild, stepgrandchild, adopting parent or adopted child.

§ 404.731 Evidence you are a natural parent or child.

If you are the natural parent of the insured person, we will ask for a copy of his or her public or religious birth record made before age 5. If you are the natural child of the insured person, we will ask for a copy of your public or religious birth record made before age 5. In either case, if this record shows the same last name for the insured and the parent or child, we will accept it as convincing evidence of the relationship. However, if other evidence raises some doubt about this record or if the record cannot be gotten, we will ask for other evidence of the relationship. We may also ask for evidence of marriage of the insured person or of his or her parent if this is needed to remove any reasonable doubt about the relationship. To show you are the child of the insured person, you may be asked for evidence you would be able to inherit his or her personal property under State law where he or she had a permanent home (see § 404.770). In addition, we may ask for the insured persons signed statement that you are his or her natural child, or for a copy of any court order showing the insured has been declared to be your natural parent or any court order requiring the insured to contribute to you support because you are his or her son or daughter.

§ 404.732 Evidence you are a stepparent or stepchild.

If you are the stepparent or stepchild of the insured person, we will ask for the evidence described in § 404.731 or § 404.733 that which shows your natural or adoptive relationship to the insured person's husband, wife, widow, or widower. We will also ask for evidence of the husband's, wife's, widow's, or widower's marriage to the insured person—see § 404.725.

§ 404.733 Evidence you are the legally adopting parent or legally adopted child.

If you are the adopting parent or adopted child, we will ask for the following evidence: