

Department of the Navy, DoD

§ 718.1

with the request that payment of the death gratuity be made upon receipt of the certification of beneficiary entitlement from the Chief of Naval Personnel (Pers-732).

(2) *Navy Relief.* In cases where there is immediate need prior to receipt of the death gratuity, the Navy Relief Society will be contacted by the Casualty Assistance Calls Program officer.

(c) *Action by the Chief of Naval Personnel.* (1) In all cases where death gratuity is not authorized to be paid locally and in cases where authority exists to pay locally but entitlement is questionable (see paragraph (a)(2) of this section), the Chief of Naval Personnel (Pers-732) will expedite adjudication of claims. As indicated in paragraph (b)(1) of this section CACP officers will refer cases of urgent financial need to the Chief of Naval Personnel (Pers-732) by message for action.

(2) If a minor is entitled to a death gratuity under 10 U.S.C. 1477 not exceeding \$1,000, such death gratuity may be paid to the father or mother as natural guardian on behalf of the minor, provided a legally appointed guardian has not been appointed, upon substantiation by a sworn (notarized) statement of the natural guardian:

(i) That no legal guardian has been appointed and that such an appointment is not contemplated;

(ii) The relationship of the natural guardian to the minor;

(iii) That the minor is in the actual custody of the natural guardian;

(iv) That an amount paid to the natural guardian will be held for, or applied to, the use and benefit of the minor.

If the death gratuity to which a minor is entitled exceeds \$1,000, the appointment of a legal guardian on behalf of the minor is requested. Certification of the minor eligible to receive the death gratuity is made by the Chief of Naval Personnel (Pers-732) and payment is effected by the Navy Finance Center, Cleveland, OH 44199;

(d) *Cross-servicing procedure.* Payment of the death gratuity may be made by a disbursing officer who is maintaining the pay record of a member of another service, provided the command to which the member is attached and

which maintains his service record is in the immediate vicinity and certifies the beneficiary eligible to receive payment on the proper voucher (DD Form 397). Otherwise the pay record will be sent to the Army Finance Center, Air Force Finance Center, Commandant of the Marine Corps (Code CDB), the Navy Finance Center, of the Commandant, U.S. Coast Guard, as appropriate.

[24 FR 7523, Sept. 18, 1959, as amended at 44 FR 25647, May 2, 1979; 45 FR 43165, June 26, 1980]

Subpart C—Provisions Applicable to the Marine Corps

§ 716.11 Procedures.

(a) *Action.* Commanding officers will direct immediate payment of the gratuity where the deceased member's spouse was, in fact, residing with the member on or near the station of duty at the time of the member's death while on active duty, active duty for training, or inactive-duty training. Every effort should be made to effect such payment promptly (within 24 hours, if possible). In cases where the eligible survivor residing with the member on or near the duty station is other than a spouse, commanding officers may direct the payment of death gratuity when the case can be properly determined, and an urgent need exists for immediate payment. Proper determination is imperative.

(b) *Qualifications.* (1) Where any doubt exists as to the legal recipient of the gratuity, the case will be referred to the Commandant of the Marine Corps (Code MSPA-1) for determination.

(2) [Reserved]

[24 FR 7523, Sept. 18, 1959, as amended at 44 FR 25648, May 2, 1979]

PART 718—MISSING PERSONS ACT

Sec.

718.1 General provisions.

718.2 Allotments.

718.3 Transportation of dependents.

718.4 Delegations.

§ 718.1 General provisions.

(a) Under the provisions of the Missing Persons Act, as amended, a finding

§718.2

of presumptive death is made by the Secretary of the Navy when a survey of all available sources of information indicates beyond doubt that the presumption of continuance of life has been overcome. When a finding of presumptive death is made, a man's pay accounts are closed as of the day following the expiration of the 12 months' absence or a longer period when justified, and the various benefits, such as the six months' gratuity, become payable. A finding of presumptive death concerning an officer or enlisted man of the Navy means simply that as of the date thereof he is for the purposes of Naval administration no longer alive. It does not mean that death occurred on that or on any other certain date.

(b) Findings of presumptive death are never made when the "missing" status has not continued for at least 12 months. Whenever, subsequent to the expiration of the 12th month, cumulative or other evidence establishes by its preponderance that a "missing" person is no longer alive, a prompt finding of presumptive death will be made. Also, such a finding will be made whenever justified by the lapse of time beyond the 12 months' absence without specific information being received.

(c) The Secretary of the Navy, or such subordinate as he may designate, has authority to make all determinations necessary in the administration of the act, and for the purposes of the act determinations so made shall be conclusive as to death or finding or death, as to any other status dealt with by the act, and as to any essential date including that upon which evidence or information is received in the Department. The determination of the Secretary of the Navy, or of such subordinate as he may designate, is conclusive as to whether information received concerning any person is to be construed and acted upon as an official report of death. When any information deemed to establish conclusively the death of any person is received in the department, action shall be taken thereon as an official report of death, notwithstanding any prior action relating to death or other status of such person. Under the foregoing provisions a determination of death is made prior

32 CFR Ch. VI (7-1-10 Edition)

to the expiration of 12 months when the evidence received is considered to establish conclusively the fact of death and settlement of accounts is made to the date established as the date of receipt of evidence on which the fact of death is established.

(Sec. 301, 80 Stat. 379; 5 U.S.C. 301. Interpret or apply 80 Stat. 112-117, 248-254; 5 U.S.C. 5561-5568, 37 U.S.C. 551-558)

[17 FR 5390, June 14, 1952]

§718.2 Allotments.

During such period as a person is in a status of missing, missing in action, interned in a foreign country, captured by a hostile force, beleaguered by a hostile force, or besieged by a hostile force, allotments from his pay and allowances may be initiated, continued, discontinued, increased, decreased, suspended or resumed in behalf of his dependents and for such other purposes as are justified by the circumstances and are in the interests of the person or of the Government.

(R.S. 161, sec. 5031, 70A Stat. 278, as amended; 5 U.S.C. 22, 10 U.S.C. 5031, 50 U.S.C. App. 1013-1015)

[26 FR 12658, Dec. 29, 1961]

§718.3 Transportation of dependents.

(a) Whenever a person in active service is officially reported as dead, injured, (Only when the anticipated period of hospitalization or treatment is expected to be of prolonged duration as shown by a statement of the commanding officer at the receiving hospital), missing for a period of 29 days or more, interned in a foreign country, or captured by a hostile force, his dependents, household and personal effects including one privately owned motor vehicle may be moved (including packing, crating, drayage, temporary storage, and unpacking of household and personal effects) to the official residence of record for any such person or to the residence of his dependent, next of kin, or other person entitled to receive custody of the effects in accordance with the provisions of paragraph (d) of this section; or, upon application by such dependent, next of kin, heir or legal representative, or other person determined in accordance with paragraph (d) of this section, or upon the