veteran was lawfully residing in the
U.S. on the date of death.
(i) Such evidence should identify the
veteran’s name and relevant dates, and
may include:
(A) A valid driver’s license issued by
the state of residence;
(B) Employment records, which may
consist of pay stubs, W-2 forms, and
certification of the filing of Federal,
State, or local income tax returns;
(C) Residential leases, rent receipts,
utility bills and receipts, or other rel-
levant documents showing dates of util-
ity service at a leased residence;
(D) Hospital or medical records show-
ing medical treatment or hospitaliza-
tion of the veteran or survivor, and
showing the name of the medical facil-
ity or treating physician;
(E) Property tax bills and receipts;
and
(F) School records.
(ii) A Post Office box mailing address
in the veteran’s name does not con-
stitute evidence showing that the vet-
eran was lawfully residing in the
United States on the date of death.
(Authority: 38 U.S.C. 107, 501(a))
(The Office of Management and Budget has
approved the information collection require-
ments in this section under control number
2900–0655)
[66 FR 66767, Dec. 27, 2001, as amended at 71
FR 8221, Feb. 16, 2006; 72 FR 9, Jan. 3, 2007]

§ 3.52 Marriages deemed valid.
Where an attempted marriage of a
claimant to the veteran was invalid by
reason of a legal impediment, the mar-
riage will nevertheless be deemed valid
if:
(a) The marriage occurred 1 year or
more before the veteran died or existed
for any period of time if a child was
born of the purported marriage or was
born to them before such marriage (see
§3.54(d)), and
(b) The claimant entered into the
marriage without knowledge of the im-
pediment, and
(c) The claimant cohabited with the
veteran continuously from the date of
marriage to the date of his or her death
as outlined in §3.53, and
(d) No claim has been filed by a legal
surviving spouse who has been found
entitled to gratuitous death benefits
other than accrued monthly benefits
covering a period prior to the veteran’s
death.
(Authority: 38 U.S.C. 103(a))

§ 3.53 Continuous cohabitation.
(a) General. The requirement that
there must be continuous cohabitation
from the date of marriage to the date
of death of the veteran will be consid-
ered as having been met when the evi-
dence shows that any separation was
due to the misconduct of, or procured
by, the veteran without the fault of the
surviving spouse. Temporary separa-
tions which ordinarily occur, including
those caused for the time being
through fault of either party, will not
break the continuity of the cohabita-
tion.
(b) Findings of fact. The statement of
the surviving spouse as to the reason
for the separation will be accepted in
§ 3.54 Marriage dates.

A surviving spouse may qualify for pension, compensation, or dependency and indemnity compensation if the marriage to the veteran occurred before or during his or her service or, if married to him or her after his or her separation from service, before the applicable date stated in his section.

(a) Pension. Death pension may be paid to a surviving spouse who was married to the veteran:

(1) One year or more prior to the veteran’s death, or

(2) For any period of time if a child was born of the marriage, or was born to them before the marriage, or

(3) Prior to the applicable delimiting dates, as follows:

(i) Civil War—June 27, 1905.

(ii) Indian wars—March 4, 1917.

(iii) Spanish-American War—January 1, 1898.

(iv) Mexican border period and World War I—December 14, 1944.


(vi) Korean conflict—February 1, 1965.


(b) Compensation. Death compensation may be paid to a surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Department of Veterans Affairs in effect on December 31, 1957, or who was married to the veteran:

(1) Before the expiration of 15 years after termination of the period of service in which the injury or disease which caused the veteran’s death was incurred or aggravated, or

(2) One year or more, or

(3) For any period of time if a child was born of the marriage, or was born to them before the marriage.

(c) Dependency and indemnity compensation. Dependency and indemnity compensation payable under 38 U.S.C. 1310(a) may be paid to the surviving spouse of a veteran who died on or after January 1, 1957, who was married to the veteran:

(1) Before the expiration of 15 years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated, or

(2) For 1 year or more, or

(3) For any period of time if a child was born of the marriage, or was born to them before the marriage.

(d) Child born. The term child born of the marriage means a birth on or after the date of the marriage on which the surviving spouse’s entitlement is predicated. The term born to them before the marriage means a birth prior to the date of such marriage. Either term includes a fetus advanced to the point of gestation required to constitute a birth under the law of the jurisdiction in which the fetus was delivered.

(e) More than one marriage to veteran. For periods commencing on or after January 1, 1958, where a surviving spouse has been married legally to a veteran more than once, the date of the