Department of Veterans Affairs

(b) Application. This policy applies to all cases including (but not limited to) the following:

(1) Notice or evidence is received that a guardian has been appointed for the beneficiary.

(2) Notice or evidence is received that the beneficiary has been committed to a hospital.

(3) The beneficiary has been rated incompetent by the Department of Veterans Affairs.

[42 FR 2069, Jan. 10, 1977]

§ 3.856 Change of name of female fiduciary.

If a female fiduciary receiving benefits in such capacity marries or is restored to her former name by divorce decree, her statement setting forth her present name may be accepted.

[39 FR 34533, Sept. 26, 1974]

§ 3.857 Children’s benefits to fiduciary of surviving spouse.

Where children are separated from the surviving spouse by reason of her (or his) incompetency, no apportionment is required. All amounts payable on behalf of the children may be paid to the fiduciary of the surviving spouse provided the fiduciary is adequately taking care of the needs of the children from the beneficiary’s estate voluntarily or pursuant to a decree of court.


§ 3.900 General.

(a) Forfeiture of benefits based on one period of service does not affect entitlement to benefits based on a period of service beginning after the offense causing the prior forfeiture.

(b)(1) Except as provided in paragraph (b)(2) of this section, any offense committed prior to January 1, 1959, may cause a forfeiture and any forfeiture in effect prior to January 1, 1959, will continue to be a bar on and after January 1, 1959.

(Authority: Section 3, Pub. L. 85-857)

(2) Effective September 2, 1959, forfeiture of benefits may not be declared except under the circumstances set forth in §3.901(d), §3.902(d), or §3.903. Forfeitures declared before September 2, 1959, will continue to be a bar on and after that date.

(Authority: 38 U.S.C. 6103(d) and 6105)

(c) Pension or compensation payments are not subject to forfeiture because of violation of hospital rules.

(d) When the person primarily entitled has forfeited his or her rights by reason of fraud or a treasonable act determination as to the rights of any dependents of record to benefits under §3.901(c) or §3.902(c) may be made upon receipt of an application.

(Authority: 38 U.S.C. 6103(b) and 38 U.S.C. 6104(b))

§ 3.902 Treasonable acts.

(a) Definition. An act of mutiny, treason, sabotage or rendering assistance to an enemy of the United States or of its allies.

(b) Effect on claim. For the purposes of paragraph (d) of this section, any person determined by the Department of Veterans Affairs to be guilty of a treasonable act forfeits all gratuitous benefits under laws administered by the Department of Veterans Affairs which he or she may be receiving or would have been entitled to receive in the future.

(c) Forfeiture before September 2, 1959. Where forfeiture for treasonable acts was declared before September 2, 1959, the Secretary may pay any part of benefits so forfeited to the dependents of the person provided the decision to apportion was authorized prior to September 2, 1959, except that the amount may not be in excess of that which the dependent would be entitled to as a death benefit.

(d) Forfeiture after September 1, 1959. After September 1, 1959, forfeiture by reason of fraud may be declared only

1. Where the person was not residing or domiciled in a State as defined in §3.1(i) at the time of commission of the fraudulent act; or

2. Where the person ceased to be a resident of or domiciled in a State as defined in §3.1(i) before expiration of the period during which criminal prosecution could be instituted; or

3. The fraudulent act was committed in the Philippine Islands.

Where the veteran's rights have been forfeited, no part of his or her benefit may be paid to his or her dependents.

(e) Remission of forfeitures imposed prior to September 2, 1959. Where it is determined that a forfeiture for fraud which was imposed prior to September 2, 1959, would not be imposed under the law and regulation in effect on and after September 2, 1959, the forfeiture shall be remitted effective June 30, 1972. Benefits to which a person becomes eligible by virtue of the remission, upon application therefor, shall be awarded effective as provided by §3.114.

§ 3.903 Forfeiture.

(a) Amount of compensation payable but for the forfeiture.

No benefits are payable to any person who participated in the fraud causing the forfeiture.

(b) Effect on claim. For the purposes of paragraph (d) of this section, any person determined by the Department of Veterans Affairs to be guilty of a treasonable act forfeits all gratuitous benefits under laws administered by the Department of Veterans Affairs which he or she may be receiving or would have been entitled to receive in the future.

(c) Forfeiture before September 2, 1959. Where forfeiture for treasonable acts was declared before September 2, 1959, the Secretary may pay any part of benefits so forfeited to the dependents of the person provided the decision to apportion was authorized prior to September 2, 1959, except that the amount may not be in excess of that which the dependent would be entitled to as a death benefit.

(d) Forfeiture after September 1, 1959. After September 1, 1959, forfeiture by reason of fraud may be declared only

1. Where the person was not residing or domiciled in a State as defined in §3.1(i) at the time of commission of the fraudulent act; or

2. Where the person ceased to be a resident of or domiciled in a State as defined in §3.1(i) before expiration of the period during which criminal prosecution could be instituted; or

3. The fraudulent act was committed in the Philippine Islands.

No benefits are payable to any person who participated in the fraud causing the forfeiture.

(e) Remission of forfeitures imposed prior to September 2, 1959. Where it is determined that a forfeiture for fraud which was imposed prior to September 2, 1959, would not be imposed under the law and regulation in effect on and after September 2, 1959, the forfeiture shall be remitted effective June 30, 1972. Benefits to which a person becomes eligible by virtue of the remission, upon application therefor, shall be awarded effective as provided by §3.114.