

CHAMPVA POLICY MANUAL

CHAPTER 1
SECTION 2.4
TITLE: SPOUSE

AUTHORITY: 38 CFR 3.50, 3.52, 3.53, 3.55, and 17.271; Public Law 93-82 (effective September 1, 1973); Public Law 106-117, Section 502, Public Law 107-330, and Public Law 108-183.

RELATED AUTHORITY: GC-89-02, GC-91-02

I. EFFECTIVE DATE

A. Reference [Chapter 1, Section 2.3, Beneficiary](#), for the effective beginning date of CHAMPVA eligibility.

B. Effective December 1, 1999, a remarried surviving spouse may reestablish CHAMPVA eligibility if the remarriage is terminated by death, divorce or annulment, or if the surviving spouse ceases to live with another person whom she/he has held publicly as a spouse.

C. Effective February 4, 2003, CHAMPVA-qualifying surviving widows(ers) who remarry after age 55 are eligible for CHAMPVA.

II. DEFINITIONS

A. A spouse is the husband or wife of an eligible CHAMPVA sponsor.

B. A surviving spouse is a person of the opposite sex who was the spouse of a veteran at the time of the veteran's death.

III. POLICY

A. A spouse or surviving spouse of a qualifying CHAMPVA sponsor is entitled to coverage for medical services as described in Chapter 2 of the CHAMPVA Policy Manual.

B. Termination of Marriage.

1. A spouse who is divorced from the sponsor loses CHAMPVA eligibility as of midnight on the date the divorce becomes final. For example, if the divorce is effective January 1, 2001, CHAMPVA benefits cease at midnight.

2. A spouse whose marriage to a sponsor is dissolved by annulment loses CHAMPVA eligibility as of midnight on the date the annulment order is granted. Even though the annulment legally declares the marriage void from inception, the spouse was CHAMPVA eligible for the period prior to the annulment decree and no recoupment action is warranted based on the annulment.

C. Remarriage.

1. A surviving spouse who remarries loses CHAMPVA eligibility on midnight of the date of the remarriage.

2. A surviving spouse who remarried, but whose remarriage is legally determined void (annulled) requalifies for CHAMPVA benefits. However, the surviving spouse is not eligible for retroactive benefits during the period of the annulled marriage.

3. A surviving spouse who remarries and is subsequently divorced requalifies for CHAMPVA benefits after the divorce if the proceedings were filed on or prior to October 31, 1990. [GC-89-02, GC-91-02]

4. A surviving spouse who remarries and the marriage is terminated by death, divorce or annulment, or who ceases living with another person with whom she/he has held publicly as a spouse, requalifies for CHAMPVA. [Public Law 106-117] Eligibility for CHAMPVA benefits for the surviving spouse is the later of:

a. the first day of the month after the termination of the remarriage, or
b. the first day of the month after the surviving spouse ceases to live with another person who is held publicly as the spouse, or

c. December 1, 1999.

5. Remarriage after age 55.

a. Effective February 4, 2003, the VA is authorized to allow benefits to a CHAMPVA-qualifying surviving spouse who remarries after age 55. [Public Law 107-330]

b. The grace period for widows(ers) who meet the criteria for a CHAMPVA beneficiary, who remarried BEFORE the enactment of this legislation, and had attained age 55 when they remarried, has been extended to December 31, 2004, to apply for CHAMPVA benefits. [Public Law 108-183]

Note: This legislation is only applicable to surviving spouses (widows(ers) and not spouses of qualifying veteran sponsors who divorce and then remarry.

6. Widows(ers) who were TRICARE eligible (including widow(ers) of a Medal of Honor recipient), and lost TRICARE eligibility because of a remarriage after age 55, may apply for CHAMPVA benefits. In this case, CHAMPVA will review the application for benefits and, if the surviving spouse meets eligibility criteria, that person would then be entitled to CHAMPVA benefits.

8. CHAMPVA widows(ers) who remarry before age 55 will not be entitled to CHAMPVA benefits during the period of the remarriage.

IV. POLICY CONSIDERATIONS

A. Marriage. A marriage must be valid under the State law where the parties reside.

B. Continuous Cohabitation. Development of the issue of continuous cohabitation is only necessary if there is an indication that the veteran sponsor and the surviving spouse were not living together at the time of the veteran's death.

1. If the surviving spouse has claimed Dependency and Indemnity Compensation (DIC) benefits through the VARO, continuous cohabitation will be addressed by the VARO. HAC will follow the VARO's determination.

2. If the surviving spouse is not entitled to DIC benefits for reasons other than continuous cohabitation and applies for CHAMPVA benefits, the question of continuous cohabitation will be developed only when there is an indication that the surviving spouse and veteran were not living together at the time of the veteran's death. A determination regarding continuous cohabitation will be made in this case in accordance with 38 CFR 3.53.

C. A determination of non-entitlement to dependency and indemnity compensation (DIC) benefits by the VBA is not a bar to a determination of CHAMPVA eligibility if the spouse and veteran (sponsor) meet all other requirements as described in [Chapter 1, Section 2.3, Beneficiary](#).

D. A spouse may also be entitled to receive medical care through the VA health care system based on his or her own veteran status. In each instance where the spouse requires medical attention, the spouse may choose the VA health care system or coverage under CHAMPVA for his/her health care needs.

V. EXCLUSIONS

A. Some exclusions apply for CHAMPVA eligibility criteria when the spouse is also entitled to Medicare Part A (see [Chapter 1, Section 2.6, Medicare](#)).

B. A spouse who is currently eligible for TRICARE benefits.

END OF POLICY