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CHAMPVA POLICY MANUAL

CHAPTER: 1
SECTION: 2.2
TITLE: SPONSOR

AUTHORITY: Public Law 93-82 (effective September 1, 1973); Public Law 99-661, Sections 604(a)(1) and (f)(1)(c); Public Law 104-106, Section 703; 38 USC 101, **38 USC Sections 1151, 1160 and 5313B**; 38 CFR 3.665, 4.16, and 17.271

RELATED AUTHORITY: **VA-OPG-GC-3-96, 1996**

I. DEFINITIONS

A. A veteran is a person who served in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable.

B. A sponsor is the veteran upon whom CHAMPVA eligibility for the applicant is based.

II. POLICY

To be a qualifying CHAMPVA sponsor, the veteran must meet one of the following criteria:

1. The veteran is permanently and totally disabled (P&T) because of an adjudicated service-connected disability, or

2. The veteran died as a result of an adjudicated service-connected disability or who at the time of death was rated P&T, or

3. The veteran died while in an active duty status and in the line of duty, not due to misconduct. The term "active duty" may include periods of inactive duty for training.

III. POLICY CONSIDERATIONS

A. If applying under policy criteria one and two (above), the sponsor's status may be determined by receipt of a copy of the VA Regional Office (VARO) rating decision. If the survivor is applying under policy criteria three (above), a copy of the casualty report will be required. The status will be confirmed with the appropriate VARO.

1. A total disability rating may be awarded, even if the disability is less than 100%, when the veteran is not capable of maintaining meaningful employment as a result of his or her service-connected disability. [38 CFR 4.16]

2. Unemployability is determined by the VARO.

3. A presumption of permanent and total disability status is not appropriate solely on the fact that a veteran is rated 100% unemployable. A determination of permanent and total disability status must also be made by the VARO.

B. Reservists.

A reservist, who becomes permanently and totally disabled and does not have a retired status and is not eligible for TRICARE, is a qualifying CHAMPVA sponsor.

Note: When the retired reserve service member turns age 60, he/she and his/her eligible family members become eligible for TRICARE.

C. In most cases, if a veteran dies while on active duty, the dependents will qualify for health care benefits under the Department of Defense (DoD) TRICARE program. If they do not qualify under TRICARE they may apply for benefits under CHAMPVA.

D. A veteran who is incarcerated may continue to be a qualifying CHAMPVA sponsor if all other criteria are met. [38 CFR 3.665]

IV. EXCLUSIONS

A. A veteran who suffered an injury or aggravation of an injury as a result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under 38 USC Chapter 31 may receive an award of permanent and total disability status or death under 38 USC 1151. An award of permanent and total disability or death under 38 USC 1151 is not a basis for determining a veteran's eligibility as a CHAMPVA sponsor.

B. A veteran who has suffered the loss of a paired organ or extremity as a result of service-connected disability, and subsequently loses the use of or function of the other organ or extremity, although such loss is not service-connected, may receive an award of permanent and total disability under 38 USC 1160. An award of permanent and total disability under 38 USC 1160 is not a basis for determining a veteran's eligibility as a CHAMPVA sponsor.

C. A veteran on the temporary disability retired list (TDRL).

D. A veteran who has a future exam scheduled that would impact the permanent and total disability rating.

E. A veteran who retired from military service on the basis of length of service.

F. A veteran (sponsor) who is a fugitive felon no longer qualifies as a CHAMPVA sponsor. Benefits for the veteran's dependents will be suspended during the period the veteran is a fugitive felon. [38 USC, Section 5313B]

END OF POLICY