

DATE: 11-16-92

CITATION: VAOPGCPREC 25-92  
Vet. Aff. Op. Gen. Couns. Prec. 25-92

**TEXT:**

**QUESTION PRESENTED:**

Does the increase in the maximum amount of Servicemen's Group Life Insurance (SGLI) from \$50,000 to \$100,000 provided by section 336 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, 105 Stat. 75 (Act), which became effective on April 6, 1991, apply to all SGLI insureds who died on or after the effective date of the Act or only to those service members who were not separated or released from military service prior to the effective date of the Act?

**COMMENTS:**

1. Subsection 336(a) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991, Pub. L. No. 102-25, 105 Stat. 75, raised the maximum amount of SGLI coverage from \$50,000 to \$100,000. The effective date provision of this section, subsection 336(c), states: "(1) The amendments made by subsection (a) shall apply with respect to deaths on or after the date of enactment of this Act."

2. Under the accepted rules of statutory construction, we initially look to the plain language of a statute to determine its meaning. 2A N. Singer, Sutherland Statutory Construction § 46.01 (4th ed. 1984); Reid v. Dep't of Commerce, 793 F.2d 277, 281 (Fed. Cir. 1986); McBarron v. S & T Indus., Inc., 771 F.2d 94, 97 (6th Cir. 1985). "There is no safer nor better settled canon of interpretation than that when language is clear and unambiguous it must be held to mean what it plainly expresses." Sutherland Statutory Construction, supra, (citing Swart v. Siegel, 117 F. 13 (1902) and United States v. McFillin, 487 F. Supp. 1130 (D. Md. 1980)). Congress, in increasing the maximum amount of SGLI to \$100,000, directed that the increase "shall apply with respect to deaths on or after the date of enactment of this Act." Pub. L. No. 102-25, § 336(a), 105 Stat. 75, 1991. The choice of words indicates an unequivocal intent that the increased coverage apply to all SGLI insureds who die on or after April 6, 1991. FN1 Our review of the legislative history does not indicate a contrary intent, and it must be assumed that the increase is to apply to deaths of all insureds occurring on or after April 6, 1991, regardless of whether they were on active duty as of that date.

3. Unfortunately, this interpretation is at odds with VA's implementing

regulation, previously concurred in by this office. The regulation states that "the \$100,000 coverage does not apply to those members separated or released prior to April 6, 1991." Amount of Insurance, 57 Fed.Reg. 11,910 (1992) (to be codified at 38 C.F.R. § 9.4). The error is understandable in view of the fact that previous increases--in 1970, 1974, 1981 and 1985--have not applied to those SGLI insureds who died during the postservice grace period of coverage. For example, section 401 of the Veterans Administration Health-Care Amendments of 1985, Pub. L. 99-166, s 401, 99 Stat. 956 (1985) raised the maximum amount of SGLI (section 401(a)) and VGLI (section 401(b)) available to service members from \$35,000 to \$50,000. The effective date provision of that section, however, set out as section 401(c) of the Act, reads as follows: "the amendments made by subsections (a) and (b) shall take effect on January 1, 1986." In Underwood v. Servicemen's Group Insurance, 893 F.2d 242 (10<sup>th</sup> Cir. 1989), the Court held that "the language of the statute had no effect on an individual who is no longer in active service and who is insured under a previously issued policy at the lower level." Id. at 244. In addition, the Court noted that the effective date provisions of former SGLI increases in 1970, (Pub. L. 91-291, § 14, 84 Stat. 326, 332 (1970) which raised the maximum from \$10,000 to \$15,000), 1974 (Pub. L. 93-289, § 12, 88 Stat. 165, 173 (1974) which raised the maximum to \$20,000), and 1981 (the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, Pub. L. 97-66, s 701, 95 Stat. 1026, 1037 (1981) which raised the maximum to \$35,000) were drafted in a manner similar to that in Pub. L. 99-166.

#### **HELD:**

The language of section 336(c) of Pub. L. 102-25 is clear on its face that the increase in maximum SGLI benefits should apply to "deaths on or after the date of enactment" of the Act. The legislative history of Public Law 102-25 does not indicate that Congress intended to limit the higher coverage "to those members separated or released on or after April 6, 1991." We conclude, therefore, that the increase in SGLI benefits applies to deaths of SGLI insureds which occurred on or after April 6, 1991, the date of enactment of Public Law 102-25.

1 Per the provisions of 38 U.S.C. §§ 1967-1969 and 38 C.F.R. §§ 9.2-9.10, a service member remains covered by SGLI for 120 days after separation or release from service unless totally disabled, in which case the service member remains covered by SGLI for one year. In both situations, the after-separation coverage is provided without the payment of any premiums during the "grace period" following separation. This opinion discusses whether payment of the increased amount is payable to those SGLI insureds who die during the "grace period."

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