

**VOLUME 7A, CHAPTER 34: “PAY ENTITLEMENT OF MEMBERS MISSING,
MISSING IN ACTION, INTERNED, AND PAYMENTS TO DEPENDENTS”**

SUMMARY OF MAJOR CHANGES

All changes are denoted by [blue font](#).

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by [***bold, italic, blue and underlined font***](#).

The previous version dated [November 2010](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Table 34-2	Rearranged footnotes to numeric order.	Update

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CHAPTER 34

**PAY ENTITLEMENT OF MEMBERS MISSING, MISSING IN ACTION,
INTERNEED, AND PAYMENTS TO DEPENDENTS**

3401 DEFINITIONS

340101. Member

See the Glossary.

340102. Dependent

See the Glossary. In addition, for the purposes of this chapter, the term “dependent” also means a dependent designated in official records, or a person determined to be a dependent by the Secretary of the Military Service concerned or the Secretary's designee.

340103. Missing Status

See the Glossary.

3402 AUTHORITY TO MAKE OFFICIAL DETERMINATIONS UNDER THE MISSING PERSONS ACT

See Table 34-1.

3403 ENTITLEMENT TO PAY AND ALLOWANCES WHILE IN A MISSING STATUS

340301. General

A member who enters a missing status is entitled to the pay and allowances to which entitled when the missing status began or to which the member later becomes entitled. The right to a certain pay or allowance is not affected by the fact that the member had not actually received payment before entering missing status. See Table 34-2 for items of entitlement.

340302. Basic Allowance for Housing (BAH) and Basic Allowance for Subsistence (BAS) Entitlement

Members without dependents are entitled to BAH at the without-dependent rate. Enlisted members are entitled to BAS. Payments of these allowances are authorized from the beginning of the missing status, even though there was no housing or subsistence allowance entitlement before the missing status began.

3404 ALLOTMENTS FOR MEMBERS IN MISSING STATUS

Allotments in effect before a member enters a missing status may be continued. As directed by the Secretary of the Military Service concerned (or designee), allotments may be initiated, suspended, resumed, increased, decreased, or discontinued where circumstances so warrant in the interests of the missing member, the dependents, or the government.

3405 TAX WITHHOLDING FOR MEMBERS IN MISSING STATUS

See paragraph 440102 and subparagraph 440103.C.2.

3406 REVIEW OF CASE AFTER 12 MONTHS AND FINDING OF DEATH

340601. Review of Case After 12 Months

When a 12-month period (from starting date of the member's absence) is about to end and the member has not been reported officially as dead, imprisoned, or interned, the case is fully reviewed. After this review and when the 12-month period has ended (or following any later review warranted by information received or other circumstances), the Secretary of the Military Service concerned (or designee):

A. Directs continuance of the member's missing status, if the member reasonably may be presumed to be living, or

B. Makes a finding of death.

340602. Continuance of Member's Missing Status

When a member is continued in a missing status under subparagraph 340601.A, credit pay and allowances to his or her account. Allotments are continued, discontinued, increased, or initiated as provided in Chapters 40 through 43. When the Secretary of the Military Service concerned (or designee) officially reports that a missing member is alive and in the hands of a hostile force or is interned in a foreign country, allotment payments are authorized. These payments on the member's behalf continue through the date on which the Secretary of the Military Department concerned (or designee) receives evidence that the member is dead. When a member returns to Military Service control, the member resumes control of allotments.

340603. Finding of Death

A finding of death includes the date upon which death is presumed to have occurred for the purposes of stopping pay and allowances, settlement of accounts, and payment of death gratuities. This date is the day following the day the member has been absent 12 months, unless the missing status is continued beyond that day. In this case, the date of death is the date determined by the Secretary of the Military Department concerned (or designee).

340604. Change in Date of Death

Payment of an account made following a report, determination, or finding of death may not be recovered and the case may not be reopened because of a later report or determination fixing an earlier date of death. If a later date of death is established, then the account is reopened and settled on the basis of the later date.

3407 CONCLUSIVENESS OF SETTLEMENTS

Settlements made under this chapter are conclusive upon the accounting officers of the government in effecting settlement of the accounts of a disbursing officer. The Secretary of the Military Department concerned (or designee) is authorized to settle members' accounts for payment under the [Missing Persons Act](#). In the absence of fraud or criminal intent on the part of the disbursing officer, credit is allowed for any erroneous payment or overpayment made by the disbursing officer under this chapter. No recovery may be made from any officer or employee who authorizes any payment under this chapter in the absence of fraud or criminal intent on the part of that officer or employee.

3408 PAYMENT OF DEATH GRATUITY

See Chapter 36 for payments when member in missing status is reported dead, or for whom a finding of death is made.

3409 ACCRUED LEAVE

340901. Accumulation

Members, while in a missing status, can accumulate leave without regard to any leave accrual limitations stated in Chapter 35, paragraph 350102.B. However, a member whose death is prescribed under section 3406 may, in addition to leave accrued before entering a missing status, accrue not more than 150 days of leave during the period of a missing status, unless the actual date of death is found to have occurred on a date when the member had accrued leave in excess of 150 days. Leave accumulated while in a missing status may not be taken but shall be paid.

340902. Settlement

Leave accumulated while in a missing status will be accounted for separately and settled as follows:

A. Return From Missing Status. Members will be paid for all leave accumulated while in a missing status as soon as possible after return from a missing status. Items to be included in the accrued leave payment are provided in Table 35-5. Computation will be based on the rates to which the member was entitled on the date that his or her name was removed from the missing status.

B. Death in a Missing Status. Notwithstanding the death of a member while in a missing status, leave will continue to accrue to his or her account through the date that the Secretary of the Military Department concerned (or designee) receives evidence that the member is dead or through the date of death as prescribed or determined under section 3406. Although leave will accrue for the entire missing status period, the actual accrued leave settlement will vary according to circumstances.

1. Death Prior to Fifth Year Missing in Action (MIA) Status. Payment for unused leave accrued to a member's credit while in a missing status is for 150 days, providing that he or she was continued in a missing status for 5 or more years. Payment for 150 days is made even though it later is found that member's actual death occurred within the first 5 years after entry into missing status or upon entry into such status. Settlement for accrued leave is based on the amount of leave accrued to the member's credit before entering the missing status and the 150 days of leave described in paragraph 340901. Items to be included in the accrued leave payment are identified in Table 35-5. Computation is based on the rates to which the member was entitled on the date of death.

2. Death Subsequent to Fifth Year MIA Status. When it is found that the member's actual death occurred subsequent to the fifth year after entry into a missing status, payment for unused leave accrued to his or her credit while in a missing status is for the total accrued until death. Settlement for accrued leave is based on the amount of leave accrued to the member's credit before entering the missing status plus the accrual until death described herein. Items to be included in the accrued leave payment are identified in Table 35-5. Computation is based on the rates to which the member was entitled on the date of death.

3. Death, MIA Status Less Than 5 Years. Payment for unused leave accrued to a member's credit while in a missing status, when he or she was continued in a missing status for less than 5 years, is for the total accrued through the date that the Secretary of the Military Department concerned (or designee) makes a finding of death. Settlement for accrued leave is based on the amount of leave accrued to the member's credit before entering the missing status plus the accrual until finding of death described herein. Items to be included in the accrued leave payment are identified in Table 35-5. Computation is based on the rates to which the member was entitled on the date of death.

4. Special Conditions of Entitlement. Settlement of accrued leave for a deceased member who was promoted while in a missing status is based on the amount of leave accrued to his or her credit before entering the missing status and the amount of leave accumulated in a missing status as provided in the applicable provisions of subparagraphs 340902.B.1, 2, or 3. Computation is based on the grade to which promoted and rate of pay in effect on the date of the presumed finding or the date of the determination of death. This will apply even though the Secretary of the Military Department (or designee) concerned later determines that the member died before the date of promotion. See Table 34-2, rule 6.

3410 REFERENCES

341001. Army

A. For casualty accounting, reporting, and notification see [AR 600-8-1](#).

B. For transportation of dependents, household goods, and personal effects see [JFTR Volume 1](#), and [DFAS-IN Regulation 37-1](#).

341002. Navy

A. For casualty accounting, reporting, and notification see [MILPERSMAN 1770 series](#).

B. For transportation of dependents, household goods, and personal effects see [JFTR Volume 1](#), and [MILPERSMAN 4050 and 4650 series](#).

341003. Air Force

A. For casualty accounting, reporting, and notification see [AFI 36-3002](#).

B. For transportation of dependents, household goods, and personal effects see [JFTR Volume 1](#).

341004. Marine Corps

A. For casualty accounting, reporting, and notification see [MCO 3040.4](#).

B. For transportation of dependents, household goods, and personal effects see [JFTR Volume 1](#), and Marine Corps Transportation Manual [MCO P4600.7C](#).

Table 34-1. Authority to Make Official Determinations Under the Missing Persons Act

R U L E	A	B	C	D	E
	If missing member is	authority to make all determinations is vested with the	who has delegated to	authority to make determinations	and all determinations
1	Army or Air Force	Director, Defense Finance and Accounting Service	Deputy Director for Operations, Defense Finance and Accounting Service	pertaining to facts of dependency, starting, stopping, or changing allotments of pay, waiving recovery of erroneous payment or overpayment, and settling accounts of members affected	are conclusive in the absence of fraud or criminal intent.
2	Navy	Secretary of the Navy	Bureau of Naval Personnel, ATTN: N135C, 5720 Integrity Dr., Millington, TN 38055-6200	status of members and their dependents, of death, of essential dates, and facts of dependency	
3	Marine Corps		Head, Personal Affairs Branch, Human Resources Division, Manpower Department, U.S. Marine Corps, Washington, DC 20380-0001		

NOTE: The approving authority pertaining to the disposition of net pay or deposits to the Savings Deposit Program for members held captive is the Secretary of the Military Service concerned (or designee).

*Table 34-2. Pay and Allowances Which Accrue to Missing Members

R U L E	A	B	C	D	E
	When member is	who is	then member is	with accounts maintained in or administered by	and
1	Army	missing, missing in action, interned in a foreign country, beleaguered or besieged by a hostile force, or detained in a foreign country against a member's will	entitled to receive or have credited to member's account the pay and allowances to which entitled when missing status began or to which member becomes entitled later, as follows: Basic pay, Special pay, Incentive pay for Hazardous duty, BAH (note 1), BAS (note 1), FSA, (note 2), FSH Station per diem allowances for not more than 90 days (note 3) HFP if the member qualified immediately before entry to a missing status (note 4)	DFAS-IN	payments continue through date of receipt by the Military Service concerned of evidence of death of the member or date of presumption of death made by the Secretary of the Military Department concerned or Secretary's designee, or date of return to Military Service jurisdiction (note 5).
2	Navy			DFAS-CL	
3	Marine Corps			DFAS-CL	
4	Air Force			DFAS-IN	

*Table 34-2. Pay and Allowances Which Accrue to Missing Members (Continued)

	A	B	C	D	E
	When member is	who is	then member is	with accounts maintained in or administered by	and
5	Army, Navy, Marine Corps, or Air Force	officially determined to be absent without authority rather than in a missing status	not entitled to pay and allowances for any such period (note 6).		
6		an officer, warrant officer, or enlisted member who receives a promotion while in a missing status (note 7)	entitled to pay and allowances of the pay grade to which promoted from the date of orders announcing the promotion.		
7		in a missing status has a change of conditions upon which pay and allowances are based	entitled to the pay and allowances based on the changed conditions (note 8).		
8		an enlisted member who continues in missing status after expiration of term of service	entitled to continuance of pay and allowances.		
9	Army, Navy, Marine Corps, or Air Force	in receipt of or has placed to member's credit pay, wages, allowances, or other compensation from the hostile force	not charged or debited with any such amount against member's pay and allowances.		

NOTES:

1. Members without dependents are entitled to BAH at the without-dependent rate. Enlisted members are entitled to BAS. See paragraph 340302.

*Table 34-2. Pay and Allowances Which Accrue to Missing Members (Continued)

NOTES (Continued)

2. A member may qualify for FSA-T while in a missing status if the continuous period of more than 30 days is completed after entering the missing status. (See paragraphs 270303 and 270304.)
3. Travel per diem and clothing monetary allowances do not accrue during a missing status, even though member was entitled to them when missing status began.
4. See paragraph 440102 and subparagraph 440103.C.2 to determine possible Combat Zone Tax Exclusion implications.
5. When facts or events warrant, the Secretary of the Military Department concerned (or designee) may change or modify a prior determination.
6. See [JFTR, Volume 1, Chapter 10, paragraph U10422](#) for continuing credit for BAH for 2 months following month of absence for members in pay grades E-1, E-2, E-3, or E-4 (4 years or less service) with dependents.
7. This applies even though the Secretary of the Military Department concerned (or designee) is later made aware that the member died before the date of promotion.
8. For example, if the sole dependent of a missing member dies, credit for BAH at the with-dependents rate ceases and any allotment in force in the dependent's favor is stopped and deductions cease.

BIBLIOGRAPHY

CHAPTER 34 - PAY ENTITLEMENT OF MEMBERS MISSING, MISSING IN ACTION, INTERNED, ETC., AND PAYMENTS TO DEPENDENTS

3402 - AUTHORITY TO MAKE OFFICIAL DETERMINATIONS UNDER THE MISSING PERSONS ACT

37 U.S.C. 555

3403 - ENTITLEMENT TO PAY AND ALLOWANCES WHILE IN A MISSING STATUS

340302

52 Comp Gen 23

3405 - TAX WITHHOLDING FOR MEMBERS IN A MISSING STATUS

26 U.S.C. 112(d)

3406 - REVIEW OF CASE AFTER 12 MONTHS AND FINDING OF DEATH

37 U.S.C. 555 and 556

3407 - CONCLUSIVENESS OF SETTLEMENTS

37 U.S.C. 557

3409 - ACCRUED LEAVE

10 U.S.C. 701(g)

340902.A

37 U.S.C. 501(h)

340902.B.4

51 Comp Gen 759

Table 34-1

37 U.S.C. 551-557

Table 34-2

37 U.S.C. 551-557

Note 1

45 Comp Gen 633

Note 7

52 Comp Gen 23