

VOLUME 7B, CHAPTER 61: “ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES (ACMSS)”

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 June 2012 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Table 61-1	Updates Annuities for Certain Military Surviving Spouses (ACMSS) amounts, effective December 1, 2012.	Update
Bibliography	Updates memorandums listed.	Update

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CHAPTER 61

ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES (ACMSS)

6101 GENERAL

The authority for ACMSS payments has been in effect since November 18, 1997. An annuity shall be paid to the qualified surviving spouse of each member of the uniformed services who:

- A. Became eligible for retired or retainer pay before September 21, 1972, died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or
- B. Was a member of a Reserve Component of the Armed Forces and died before October 1, 1978, and at the time of his death would have been entitled to retired pay under [Title 10, United States Code \(U.S.C.\), chapter 67](#) (as in effect before December 1, 1994), but for the fact that he was under 60 years of age.

6102 ANNUITY APPLICATION

An annuity application is required before payment will be made. A Department of Defense [\(DD\) Form 2769](#) ("Application for Annuity Certain Military Surviving Spouses"), should be submitted to the Military Service concerned. The Military Service reviews the claim and determines whether the applicant is qualified for an ACMSS annuity. If information is unavailable from existing records, such as the Defense Enrollment Eligibility Reporting System (DEERS), then the applicant may be required to submit the following documentation to the Military Service: certified copies of the member's death certificate and/or marriage certificate; DD Form 214 ("Certificate of Release or Discharge From Active Duty"); retirement order; retired pay statement; or any additional information needed to substantiate the claim. The Military Service notifies the applicant on the disposition of the claim within 60 days. The Military Service forwards approved claims to the Defense Finance and Accounting Service (DFAS)-Cleveland Site for payment.

6103 DEFINITION OF A QUALIFIED SURVIVING SPOUSE AND DECEASED RETIRED MEMBER

610301 Qualified Surviving Spouse.

A qualified surviving spouse is defined as a spouse who:

- A. Was married to a deceased retired member of a Uniformed Service described in paragraph 610302 at the time of such member's death and has never been remarried, or;
- B. Was married to the member at the time the member became eligible for retired pay, or had been married to the member for at least 1 year before the date of death, or was

the parent of a child born of such marriage.

610302 Deceased Retired Member.

A deceased retired member is one who:

A. Became entitled to retired pay or retainer pay before September 21, 1972, died before March 21, 1974, and was entitled to retired or retainer pay on the date of death; or

B. Died before October 1, 1978 and at the time of death would have been entitled to retired pay under [Title 10, United States Code \(U.S.C.\), chapter 67](#) (10 U.S.C. 1331, et seq.) (as in effect before December 1, 1994), except for the fact that the member was under 60 years of age. The ACMSS under this subparagraph is payable for the months beginning after September 30, 1999.

6104 PAYMENT OF ANNUITY

610401 Payment Effective Date.

Upon receipt of a validated claim endorsed by the Military Service, DFAS-Cleveland Site shall begin payment to a qualified surviving spouse within 30 days. The monthly payments begin effective December 1, 1997, except where entitlement is under subparagraph 610302.B, in which case entitlement begins effective October 1, 1999.

610402 Representative Payee.

ACMSS payments due to a mentally incompetent or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed may be paid to a representative payee, the same as the Survivor Benefit Plan (SBP). See Chapter 46, paragraph 460103.

610403 Report of Existence (ROE) and Certificate of Continued Eligibility (COE).

The procedures for ROE and COE on SBP annuity payments also apply to ACMSS payments. See Chapter 46.

610404 Debt Collection.

Overpayments of annuity are subject to the same collection action as SBP. See Chapter 46 of this volume.

610405 Taxability.

The taxability of ACMSS payments is similar to SBP annuity. See Chapter 46.

610406 Death of Annuitant.

The annuity terminates the first day of the month in which the annuitant dies.

610407 Arrears of Annuity.

Any amounts which are due and payable at the time of the annuitant's death may be paid in accordance with the provisions of Chapter 31, paragraph 310103. The unpaid annuity will only be paid upon receipt of a properly executed and documented claim, approved by the Secretary of the Military Department concerned (or designee).

610408 Remarriage.

The annuity terminates the first day of the month in which the annuitant remarries.

6105 ANNUITY AMOUNT AND OFFSET

610501 Amount.

The annuity to a qualified surviving spouse was initially established at \$165 per month. The amount is subject to the same cost-of-living adjustments and at the same time as military retired pay increases. The first cost-of-living adjustment was effective December 1, 1997, as shown on Table 61-1. The provision for rounding monthly SBP annuity is not applicable.

610502 Offset.

The amount of annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to the surviving spouse for the same period under any of the following:

- A. SBP; Retired Serviceman's Family Protection Plan; and Reserve Component SBP, or;
- B. Minimum Income Widow's benefit, or;
- C. Dependency and Indemnity Compensation.

6106 FUNDING

Annuities must be funded by the approving Military Service from operation and maintenance funds for the fiscal year in which the payment is made.

*Table 61-1. ACMSS ANNUITY AMOUNT

Date of Increase	Percent	Amount
November 1, 1997		\$165.00
December 1, 1997	2.1	\$168.47
December 1, 1998	1.3	\$170.66
December 1, 1999	2.4	\$174.76
December 1, 2000	3.6	\$181.05
December 1, 2001	2.6	\$185.76
December 1, 2002	1.4	\$188.36
December 1, 2003	2.1	\$192.32
December 1, 2004	2.7	\$197.51
December 1, 2005	4.1	\$205.61
December 1, 2006	3.3	\$212.40
December 1, 2007	2.3	\$217.29
December 1, 2008	5.8	\$229.89
December 1, 2009	0	\$229.89
December 1, 2010	0	\$229.89
December 1, 2011	3.6	\$238.17
December 1, 2012	1.7	\$242.22

BIBLIOGRAPHY

**CHAPTER 61 – ANNUITIES FOR CERTAIN MILITARY SURVIVING SPOUSES
(ACMSS)**

6101 – General

Public Law 105-85, section 644, November 18, 1997
 OASD/MPP Memo, May 6, 1998
 Public Law 106-65, section 656, October 5, 1999
 Public Law 107-314, section 634, December 2, 2002

6102 Annuity Application

10 U.S.C. 1448

6103 Definition of a Qualified Surviving Spouse and Deceased Retired Member

10 U.S.C. 1448

610302. B Public Law 106-65, section 656, October 5, 1999
 Public Law 107-314, section 634, December 2, 2002

6105 Annuity Amount and Offset

610501 10 U.S.C. 1401a
 10 U.S.C. 1451
 610502.A. 10 U.S.C. 1431
 610502.B. Public Law 92-425, section 4, September 21, 1972
 610502.C. 38 U.S.C. 1311(a)

Table 61-1 Public Law 105-85, Section 644, November 18, 1997
 OUSD (P&R) Memo, December 8, 2003
 OUSD (P&R) Memo, December 2, 2004
 OUSD (P&R) Memo, November 26, 2005
 OUSD (P&R) Memo, November 8, 2006
 OUSD (P&R) Memo, November 9, 2007
 OUSD (P&R) Memo, October 29, 2008
 OUSD (P&R) Memo, November 17, 2009
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 OUSD (P&R) Memo, November 22, 2011
 OUSD (P&R) Memo, November 8, 2012

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