

**VOLUME 7A, CHAPTER 36: “PAYMENTS ON BEHALF OF DECEASED MEMBERS”**

**SUMMARY OF MAJOR CHANGES**

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (\*) 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 [April 2022](#) is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated formatting and hyperlinks to comply with current administrative instructions.	Revision
2.0	Updated the “Death Gratuity” section content for accuracy and clarity. Renumbered subsequent paragraphs.	Revision
3.0	Updated the “Settling Deceased Members’ Account” section content for accuracy and clarity. Renumbered subsequent paragraphs.	Revision
4.0	Added the “Housing Allowance Following Service Member’s Death” section. Transferred policy from Chapter 26, paragraph 261014.	Addition
5.0	Added the “Payments to Legally Incapacitated Beneficiaries” section.	Addition
6.0	Added the “Prohibition of Payment to Beneficiary Who Killed Decedent” section.	Addition
Table 36-1	Updated “Table 36-1” for clarity.	Revision
Table 36-2 Table 36-5	Updated Tables “36-2 and 36-5” to comply with the Air Force Manual 65-116, Volume 1, dated February 24, 2023.	Revision
References	Updated supporting statutes and references.	Revision

## Table of Contents

VOLUME 7A, CHAPTER 36: “PAYMENTS ON BEHALF OF DECEASED MEMBERS” ....	1
1.0 GENERAL .....	4
1.1 Purpose .....	4
1.2 Authoritative Guidance .....	4
*2.0 DEATH GRATUITY .....	4
2.1 Death of Members on Active Duty or Inactive Duty Training and Certain Other Persons .....	4
2.2 Death After Discharge or Release From Duty or Training .....	5
2.3 Definitions .....	6
2.4 Beneficiaries .....	6
2.5 Documentation Required for Payment .....	7
2.6 Determining Eligible Beneficiaries .....	8
2.7 Determinations Affecting Entitlement .....	10
2.8 Exemptions .....	10
2.9 Immediate Payments .....	10
2.10 Responsibility for Payment of Death Gratuity .....	10
2.11 Erroneous Payment .....	10
*3.0 SETTLING DECEASED MEMBERS’ ACCOUNTS .....	11
3.1 General .....	11
3.2 Documentation Required for Payment .....	11
3.3 Designated Beneficiary .....	12
3.4 Beneficiary Under Order of Precedence .....	12
3.5 Death of Beneficiary .....	13
3.6 Tax Abatement .....	13
3.7 Advance of Pay .....	13
3.8 Prohibition .....	13
*4.0 Housing Allowance Following Service Member’s Death.....	14
4.1 Not Payable .....	14
4.2 Payment Priority.....	14
4.3 Payment Amount and Method.....	14
4.4 Surviving Service Member Spouse .....	14
4.5 Rate Defining Location .....	15
*5.0 Payments to Legally Incapacitated Beneficiaries.....	16
5.1 Time Limit for Claim .....	16
5.2 Minor Beneficiary .....	16
5.3 Mentally Incapacitated Adult.....	18

Table of Contents (Continued)

\*6.0 Prohibition of Payment to Beneficiary Who Killed Decedent..... 18

\*Table 36-1. Eligible Survivors Where No Designated Beneficiary - Death Gratuity ..... 19

\*Table 36-2. Responsibility for Payment of Death Gratuity - General..... 20

Table 36-3. Responsibility for Payment of Death Gratuity – Army ..... 21

Table 36-4. Responsibility for Payment of Death Gratuity - Navy ..... 22

\*Table 36-5. Responsibility for Payment of Death Gratuity - Air Force and Space Force..... 23

Table 36-6. Responsibility for Payment of Death Gratuity - Marine Corps ..... 24

\*REFERENCES ..... 26

## CHAPTER 36

**PAYMENTS ON BEHALF OF DECEASED MEMBERS**

## 1.0 GENERAL

## 1.1 Purpose

The purpose of this chapter is to provide policy pertaining to the processing of payments on behalf of deceased military members.

## 1.2 Authoritative Guidance

The pay policies and requirements established by the DoD in this chapter are derived primarily from, and prepared in accordance with the United States Code (U.S.C.), including Titles 10, 24, 29, 31, 34 and 37. The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

**\*2.0 DEATH GRATUITY**

A death gratuity in a total amount of \$100,000 is payable to one or more eligible beneficiaries of a deceased individual as set forth in this section.

2.1 **Death of Members on Active Duty or Inactive Duty Training and Certain Other Persons**

Death gratuity will be paid, regardless of whether death occurred in the line of duty or as the result of a member's misconduct, to eligible beneficiaries of the following (except a temporary member of the Coast Guard Reserve):

2.1.1. A member who dies while on active duty or while traveling to or from such duty;

2.1.2. A person who dies either while traveling to, from, or while at a place for final acceptance or for entry upon active duty (other than for training) in the Military Service; who has been ordered or directed to go to that place, and who has been:

2.12.1. Provisionally accepted for that duty; or

2.1.2.2. Selected, under the Military Selective Service Act, for duty in that Military Service;

2.1.3. A member whose death is determined by administrative finding under the Missing Persons Act;

2.1.4. A National Guard or Reserve member who:

2.1.4.1. Dies while on inactive duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service); or

2.1.4.2. When authorized or required by an authority designated by the Secretary, assumed an obligation to perform active duty for training, or inactive duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service), and who dies while traveling directly to or from that active duty for training or inactive duty training or while staying at the National Guard or Reserve member's residence, when so authorized by proper authority, during the period of such inactive duty training or between successive days of inactive duty training;

2.1.5. A member of a Reserve Officers' Training Corps (ROTC) who dies while performing annual training duty under orders for a period of more than 13 days or while performing authorized travel to or from that annual training duty; or any applicant for membership in an ROTC who dies while attending field training or a practice cruise, or while performing authorized travel to or from the place where the training or cruise is conducted; or, effective May 1, 2017, a graduate of a ROTC who has received a commission but has yet to receive a first duty assignment.

## 2.2 Death After Discharge or Release From Duty or Training

Death gratuity will be paid to eligible beneficiaries of the following persons (except a person who was a temporary member of the Coast Guard Reserve at the time of death):

2.2.1. A person who dies during the 120-day period beginning on the day following discharge or release from:

2.2.1.1. Active Duty (including for retirement for either disability or length of service); or

2.2.1.2. Inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance, in an inactive status, at an educational institution under the sponsorship of an armed force or the Public Health Service).

2.2.2. For death gratuity to be payable due to the death of a person described in subparagraph 2.2.1, the Secretary of Veterans Affairs (VA) must determine:

2.2.2.1. The death resulted from an injury or disease incurred or aggravated during the active duty or inactive-duty training from which discharged or released or during travel directly to or from such duty; and

2.2.2.2. The decedent was discharged or released under conditions other than dishonorable from the last period of duty or training performed.

## 2.3 Definitions

2.3.1. Active Duty. Active duty is full-time duty in the active service of a Uniformed Service, including active duty training (full-time training duty, annual training duty, or attendance, while in the active service, at a school designated as a Military Service school by law or by the Secretary concerned). (The exception to this definition is noted in subparagraphs 2.1.2 and 2.1.3).

2.3.2. Member. A member of the Military Service is a person appointed, enlisted, or inducted into a branch of the Military Services, including Reserve Components and cadets or midshipmen of the Military Service Academies. In paragraphs 2.3 - 2.11, the term “member” also includes a decedent who was not a member at death but for whom a death gratuity is payable under paragraph 2.1.

2.3.3. Reserve Components. The Reserve Components consist of the U.S. Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, U.S. Air National Guard, and the Air Force Reserve.

## 2.4 Beneficiaries

2.4.1. Designated Beneficiary. Effective July 1, 2008, a member may designate one or more persons, to receive a portion of the death gratuity using DoD (DD) Form 93, Record of Emergency Data.

2.4.1.1. The portion payable to the designee must be specified in 10 percent increments. Where a total of less than 100 percent is assigned among designated beneficiaries, the remaining balance will be paid in accordance with subparagraph 2.4.3. If the designation is not in a 10 percent increment, the percentage designated will be rounded down to the nearest 10 percent increment and any undesignated portion will be paid in accordance with subparagraph 2.4.3.

2.4.1.2. From May 25, 2007, through June 30, 2008, a member was permitted to designate a person other than those on the survivor precedent list mandated by law at that time to receive up to 50 percent of the amount payable under paragraph 2.6.

2.4.1.3. On or after, January 28, 2008, if a member has a spouse but designates a person other than the spouse to receive a portion of the amount payable, then the Secretary concerned will provide notice of the member’s designation to the spouse.

2.4.2. Conflicting Designations. If a member provides conflicting information on the DD Form 93 regarding designation of beneficiaries and their corresponding shares of the death gratuity, then payment will be made only to the extent that there are unambiguous designations.

Example: A member completes the February 2023 version of the DD Form 93. The member completes block 13 by designating his mother to receive 100 percent of the death gratuity, and completes block 16 by designating his mother and his sister to each receive 50 percent of the death gratuity, resulting in conflicting designations. In this situation, 50 percent of the death

gratuity would be payable to the mother, and the remaining 50 percent would be paid in accordance with subparagraph 2.3.2.

2.4.3. Beneficiary Under Order of Precedence. If a member does not make a designation under subparagraph 2.4.1, or designates only a portion of the amount payable, or makes an ambiguous or erroneous designation that results in an undesignated portion, the beneficiary or beneficiaries eligible for payment of the undesignated amount of the death gratuity will be determined based on the following order of precedence:

2.4.3.1. To the surviving spouse of the member;

2.4.3.2. If no surviving spouse, then the child or children of the member and descendants of deceased children, by representation;

2.4.3.3. If no survivor in accordance with subparagraphs 2.4.3.1 or 2.4.3.2, then the parents of the member, in equal shares, or to the surviving parent;

2.4.3.4. If no survivor in accordance with subparagraphs 2.4.3.1 through 2.4.3.3, then the duly appointed legal representative of the member's estate; or

2.4.3.5. If no survivor in accordance with subparagraphs 2.4.3.1 through 2.4.3.4, then the person(s) determined to be entitled under the laws of the state in which the member was domiciled.

2.4.3.6. Treatment of Parents. For the purpose of subparagraph 2.4.3.3, only one father and one mother may be recognized in any case, and preference will be given to those who exercised a parental relationship on the date or most nearly before the date on which the member died.

2.4.3.7. Death of Eligible Survivor. If an eligible survivor dies before receipt of the death gratuity, it will be paid to the living survivor next in the order of precedence.

2.4.4. Effect of a Will. A bequest of a death gratuity in a will does not constitute a legal designation for receipt of death gratuity, nor is the death gratuity part of the member's estate, as it is not money owed to the member. The applicable statutory provisions concerning beneficiaries for death gratuity, as described in subparagraphs 2.4, control, not the will.

## 2.5 Documentation Required for Payment

2.5.1. Official notification of the death of an individual listed in 10 U.S.C. section 1475(a) or 1476 Official notification of death must be documented on DD Form 1300 (Report of Casualty), a Death Certificate, or determination by the Secretary concerned, or his or her authorized designee that the individual listed in 10 U.S.C. § 1475(a) has died.

### 2.5.2. A DD Form 397, Claim Certification and Voucher for Death Gratuity Payment.

2.5.2.1. The DD Form 397 is used to process payment to an individual who has been identified by the Service as a proper beneficiary in accordance with 2.6.

2.5.2.2. An individual who believes that they are entitled to payment of death gratuity may file a written claim for payment using the DD Form 397. A written claim for payment of death gratuity must be received by the Service within six years of the date of death of a decedent described in paragraph 2.1 or in the case of a decedent described in paragraph 2.2, six years from the date on which the Secretary of the Veteran Affairs makes its determination as required. No payment may be made based upon an untimely claim. Refer to paragraph 5.1 for cases where a beneficiary is a minor or otherwise legally incapacitated.

2.5.3. Any other documentation required in this Chapter or otherwise requested by a responsible official in order to determine entitlement to payment.

2.5.4. Refer to section 5.0 for additional requirements for payment where a claim is made on behalf of a person with a legal incapacitation.

## 2.6 Determining Eligible Beneficiaries

When officially notified that a member of his or her command has died, the commanding officer (CO) maintaining the member's personnel or service records determines if there is an eligible death gratuity beneficiary in accordance with paragraph 2.4, as further explained in Table 36-1. Attorneys responsible for advising the Service will aid in cases involving a question of law. In a case where relationship to the member is of questionable validity or legality, Service attorneys will aid in review and will consult with Defense Finance and Accounting Service (DFAS) Office of General Counsel as needed.

2.6.1. Lawful Spouse. If a decedent is survived by a spouse, the following evidence will be used to determine whether an eligible beneficiary exists:

2.6.1.1. Entitlement to Basic Allowance for Housing (BAH) or evidence of assignment of government quarters to a member and spouse; or

2.6.1.2. Documentary evidence of marriage and proof of termination of any prior marriage of either the beneficiary or decedent.

2.6.2. Children. If a decedent is survived by a child or children, but is not survived by a spouse, the following evidence will be used to determine whether an eligible beneficiary exists:

2.6.2.1. Documentary evidence that demonstrates the termination of any marriage of the decedent, including a certified copy of the spouse's death certificate, a divorce decree, or an annulment decree.

2.6.2.2. Base eligibility of child or children upon documentary proof of relationship, including:

2.6.2.2.1. Biological Child. The original or certified copy of the original birth certificate; or

2.6.2.2.2. Legally Adopted Child. A certified court order of adoption in the case of a legally adopted child.

2.6.2.2.3. Stepchild. A marriage certificate reflecting the marriage between member and one of the child's biological parents, original or certified copy of the child's birth certificate, and proof that the stepchild was part of the member's household.

2.6.2.2.4. Illegitimate Child. Proof of parentage of a child born out of wedlock, including:

2.6.2.2.4.1. A written acknowledgement of parentage of a child that is signed by the decedent's death; or

2.6.2.2.4.2. A court order reflecting a judicial determination of paternity made before the decedent's death; or

2.6.2.2.4.3. A court order reflecting that the decedent was required to contribute to the child's support; or

2.6.2.2.4.4. A written determination by the Secretary of VA that the child has been proven to be a child of the decedent.

2.6.3. Parents. If the decedent is not survived by a spouse or child (or child's descendants) and has not officially designated any other individual(s) to receive the full death gratuity, then the parent beneficiary must furnish:

2.6.3.1. Documentary evidence that demonstrates the termination of any marriage entered into by the decedent, including a certified copy of the spouse's death certificate, a divorce decree, or an annulment decree; and

2.6.3.2. An affidavit (written statement that is signed and notarized) by the parent confirming that, to the best of his or her knowledge, the decedent has no living children and, if the decedent ever had children that those children have no surviving children.

2.6.4. In Loco Parentis. A person who stood in loco parentis (in the place of a parent) does not qualify for the death gratuity as a "parent" of the member. A member must designate such a person in order for that person to qualify as an eligible beneficiary.

## 2.7 Determinations Affecting Entitlement

2.7.1. Death as Lawful Punishment. No death gratuity is payable in the case of a member whose death is the result of a lawful punishment for a crime or military offense, except when such death was inflicted by a hostile force with which the Armed Forces of the United States was engaged in armed conflict.

2.7.2. Absence Without Leave (AWOL) or Absence Over Leave (AOL). A death gratuity is payable in the case of a member whose death occurs while he or she is in an unauthorized absence status, either AWOL or AOL, including being in custody of civil authorities, provided the date of death is prior to the normal expiration of contracted duty.

2.7.3. Desertion. No death gratuity is payable in the case of a member who is a declared deserter at the time of his or her death unless it is later found that the declaration was in error.

## 2.8 Exemptions

2.8.1. Death gratuity payments may not be used to satisfy indebtedness (including overpayments).

2.8.2. The death gratuity amount is excluded from gross income for tax purposes. Also, see Chapter 44, Table 44-4, Rule 16.

## 2.9 Immediate Payments

Immediate payment of a death gratuity (within 24 hours, if possible) will be made when the eligible beneficiary can be determined, and there is no doubt as to the propriety of payment.

## 2.10 Responsibility for Payment of Death Gratuity

See Tables 36-2 through 36-6.

## 2.11 Erroneous Payment

An erroneous payment of death gratuity is one made to a person who was not entitled to the payment under the law.

2.11.1. Make a second payment to the rightful beneficiary when the error resulted from improper maintenance of records or administrative negligence. Do not delay this payment pending recovery of the erroneous payment from the ineligible recipient.

2.11.2. Do not make a second payment of death gratuity to a different person if the original payment was based on written statements of record made by the member, and the government had no reason to doubt that the individual had been designated by the member as a beneficiary or held the relationship status to the member as stated by the member.

### \*3.0 SETTLING DECEASED MEMBERS' ACCOUNTS

#### 3.1 General

Payment of any unpaid pay and allowances (UPPA) due on behalf of a deceased member of the Armed Forces will be made to [one or more eligible beneficiaries of the deceased member described](#) in paragraphs 3.3 and 3.4. UPPA include:

3.1.1. Pay and allowances due and unpaid at death, including settlement of accrued leave (subject to limitation in Chapter 35, subparagraph 2.1.1.4.3). Entitlement restrictions apply. [Any pay and allowances unpaid at death will be offset by any outstanding debts.](#)

3.1.1.1. [Family Separation Allowance \(FSA\)](#). If a member dies within the first 30-days of qualifying duty, then the member is not entitled to FSA-Ship (S) (Chapter 27, subparagraph 2.3.1.2) or FSA-Temporary (T) (Chapter 27, subparagraph 2.3.1.3). FSA-S and FSA-T will be excluded from the final settlement of the member's military pay account.

3.1.1.2. [Hardship Duty Pay – Location \(HDP-L\)](#). [Service members permanently assigned or serving in a temporary duty or deployed or attached status for over 30 consecutive days in an HDP-L designated area will receive HDP-L.](#) If a member dies within the first 30-days of qualifying duty, then the member is not entitled to HDP-L (Chapter 17, subparagraph 2.1.2). HDP-L will be excluded from the final settlement of the member's military pay account;

3.1.2. Amounts due for travel, per diem, transportation of dependents, and shipment of household goods, [subject to split disbursement requirements for the Government Travel Charge Card](#);

3.1.3. Member's savings deposits and interest thereon;

3.1.4. If a member [receiving a bonus or other pay or benefits under an agreement conditioned on the member satisfying eligibility requirements](#) dies before receiving the full amount [under the agreement](#) (including contracted future year anniversary payments) and if death is not caused by the member's misconduct, then the remaining bonus balance is payable as a lump sum for inclusion in the settlement of the deceased member's final military pay account. If [the death is determined to have been the result of the member's misconduct](#), then [no further payments may be made, and unearned portions of amounts paid to the member must be recouped and will reduce the amount of UPPA payable.](#) Refer to Chapter 2; or

3.1.5. Proceeds of any checks for items in subparagraphs 3.1.1 through 3.1.4, unnegotiated by the member before death.

#### 3.2 Documentation Required for Payment

3.2.1. [Official Notification](#). Official notification of the death or finding of death of the member must be documented on DD Form 1300 (Report of Casualty), a Death Certificate, or

determination by the Secretary concerned, or his or her authorized designee, that the member has died.

3.2.2. A Standard Form (SF) 1174, Claim for Unpaid Compensation of Deceased Member of the Uniformed Services.

3.2.2.1. The SF 1174 is used to process payments to an individual who has been identified by the Services as a proper beneficiary in accordance with paragraphs 3.3-3.4.

3.2.2.2. An individual who believes that they are entitled to payment of UPPA may file a claim for payment by using the SF 1174. A written claim for payment of UPPA must be received by the Service within six years of the date of death of a member. No payment may be made based upon an untimely claim. Refer to paragraph 5.1 where a beneficiary is a minor or otherwise legally incapacitated.

3.2.3. Any other documentation required in this Chapter or otherwise requested by the responsible official to determine entitlement to payment.

3.2.4. Refer to section 5.0 for additional requirements for payment where a claim is made on behalf of a person with a legal incapacitation.

### 3.3 Designated Beneficiary

A member **may** designate any **person**, related or not, to receive the member's UPPA. Designation of a beneficiary for must have been executed by the member and filed **and received by the Service** in accordance with regulations governing such designations. When more than one beneficiary has been named, the percentages specified by the member govern payment. If no percentages have been specified, then payment will be divided equally among designated beneficiaries.

### 3.4 Beneficiary Under Order of Precedence

3.4.1. Order of Precedence. If a member **did not** designate a beneficiary for UPPA, or designated only a portion of the amount payable, payment of the undesignated amount is made in the following order of precedence:

3.4.1.1. The surviving spouse of **the** member;

3.4.1.2. If no surviving spouse, then the child or children of the member and descendants of deceased children, by representation;

3.4.1.3. If no survivor in accordance with subparagraphs 3.4.1.1 or 3.4.1.2, then the parents of the member, in equal shares, or to the surviving parent;

3.4.1.4. If no survivor in accordance with subparagraphs 3.4.1.1 through 3.4.1.3, then the duly appointed legal representative of the member's estate; or

3.4.1.5. If no survivor in accordance with subparagraphs 3.4.1.1 through 3.4.1.4, then the person(s) determined to be entitled under the laws of the state in which the member was domiciled.

3.4.2. Adopted Child. An adopted child is a legal heir in every state and is therefore, entitled to payment of UPPA if otherwise proper. If the deceased member's child is adopted by others, then the child is a beneficiary only in those states where an adopted child inherits from the child's natural parent.

3.4.3. Stepchild. A stepchild is not an eligible beneficiary unless adopted by the deceased member.

### 3.5 Death of Beneficiary

If a beneficiary dies after the member but before receiving payment of UPPA, it may be paid to the beneficiary's estate upon presentation of an SF 1174. If the beneficiary does not have an estate established and the UPPA is \$3,000 or less, it may be paid to the deceased survivors of the beneficiary in the order of precedence set out in paragraph 3.4. If the UPPA is greater than \$3,000, DFAS may pay it in accordance with laws of the domicile of the deceased beneficiary. If doubt exists as to entitlements, refer the issue to DFAS.

### 3.6 Tax Abatement

See Chapter 44, paragraph 2.4 if the member's death was caused by terrorist or military action overseas.

### 3.7 Advance of Pay

The following applies to a deceased member's final pay computation:

3.7.1. Except for an advanced pay paid under the provisions of Chapter 32, paragraph 2.3, when a member is in a combat zone and receiving imminent danger or hostile fire pay, advance pays that have not been repaid prior to the death of the member remain a debt to the United States for the unliquidated amount. Advance pays paid under paragraph 2.3 and not fully collected at the time of death will not be collected against the estate of a deceased member.

3.7.2. A member may receive an early payment of pay and allowances due to a regular payday falling on a weekend or legal holiday. If the member dies before the last day of that pay period, then no collection will be taken for any extra days of pay received.

### 3.8 Prohibition

Any payments made under this section prohibit recovery of those payments by any other person.

#### \*4.0 Housing Allowance Following Service Member's Death

BAH or OHA continuation or payment to the surviving dependent of a Service member who dies on AD is authorized for 365 days. It is paid to the dependent who, on the date of the Service member's death:

4.0.1. was not occupying Government quarters; or

4.0.2. was occupying Government quarters on a rental basis, or

4.0.3. was occupying Government quarters, but vacates those quarters within 365 days of the Service member's death.

#### 4.1 Not Payable

The housing allowance is not payable to a surviving dependent of an RC member if that RC member dies while on inactive duty. See section 6.0 concerning payment to a dependent who killed the Service member.

#### 4.2 Payment Priority

Payments to a surviving dependent are made first to the current spouse. If there is no current spouse, the housing allowance is divided equally among the dependents on whose behalf the deceased Service member was receiving a with-dependent housing allowance or who were living with the member in Government quarters. No payment may be made to any individual for whom the member was not receiving a with-dependent housing allowance or who were not in the member's physical custody at the time of the member's death.

#### 4.3 Payment Amount and Method

The housing allowance is paid at the rate that is payable for members of the same grade and dependency status as the deceased Service member for the area where the dependents are residing. The housing allowance may be paid quarterly as an advance payment, but must be reconciled. Housing allowance payments to the dependent are not subject to collection of any debts owed by the deceased Service member to the United States.

#### 4.4 Surviving Service Member Spouse

The allowance in this paragraph may be paid to a deceased Service member's spouse even if the spouse is also a Service member entitled to basic pay. The allowance is paid to the surviving Service member spouse in addition to any other pay and allowances to which the surviving Service member spouse is authorized as a Service member. The following payment rules apply:

4.4.1. Dual housing-allowance payments are authorized for a surviving Service member spouse.

4.4.2. When any dependents other than a surviving Service member spouse are involved, the housing allowances are paid in the same manner that was provided for before the Service member's death. If the surviving Service member spouse was drawing the without-dependent housing allowance on the Service member's date of death, that rate would continue for 365 days. On day 366, the surviving Service member spouse's housing allowance could change to the with-dependent rate.

4.4.3. If the family vacates Government quarters, the surviving Service member spouse is paid the housing allowance that would have been paid to the deceased Service member, as well as the housing allowance to which the surviving Service member spouse is authorized. In this case, the surviving Service member spouse may determine on whose behalf the with-dependent and the without-dependent housing allowances are paid.

4.4.4. If the deceased Service member was receiving a with-dependent housing allowance solely for a dependent who may not be claimed by the surviving Service member spouse, the surviving Service member spouse is only authorized housing allowance continuation at the without-dependent rate. The remainder—the difference between the with-dependent and without-dependent rates—is divided equally among the dependents on whose behalf the deceased Service member was receiving the with-dependent rate.

4.4.5. When a deceased Service member had a Service member spouse (spouse) but no other dependents, and the spouse and deceased Service member were each assigned to single-type Government quarters on the date of death (i.e., the deceased member was not receiving a housing allowance other than BAH-Partial), the following rules apply:

4.4.5.1. While the spouse continues to reside in single-type Government quarters, the spouse is entitled to BAH-Partial based on his or her own service, and no housing allowance based on the deceased member.

4.4.5.2. If the spouse remains in service and moves out of single-type Government quarters and into non-Government quarters within 365 days of the date of death, the spouse is entitled to a housing allowance at the without-dependent rate based on his or her own service, and BAH-Partial based on the deceased member for the balance of the 365-day period.

4.4.5.3. If the spouse separates from service within 365 days of the date of death, the spouse is entitled to payment of a with-dependent housing allowance based on the deceased member's last PDS location for the balance of the 365-day period.

#### 4.5 Rate Defining Location

4.5.1. If a Service member with a dependent dies on AD while assigned to a PDS in the United States, then the housing allowance for the dependent is based on the deceased Service member's PDS, regardless of the location where the dependent chooses to reside unless the dependent is in receipt of a Secretarial waiver.

4.5.2. If a Service member with a dependent dies on AD while assigned to a PDS outside the United States, then the housing allowance for the dependent is based on the location where the dependent resides, or chooses to reside, in the United States. If the dependent stays overseas, the housing allowance is based on the OHA rate—and the documented cost—for the location where the dependent resides. It then changes to BAH based on the United States location where the dependent later decides to reside on the date that any dependent arrives there or the date that all dependents have departed the PDS location, whichever is later.

4.5.3. If a Service member with a dependent dies on AD and a dependent resides in Government quarters, then the housing allowance for the dependent is based on the dependent's location the day that the Government housing facilities were vacated. That rate continues for 365 days, less the number of days the Government housing facilities were occupied following the date of the Service member's death. If the Government housing was outside the United States, pay the housing allowance based on the location where the dependent chooses to reside.

#### \*5.0 Payments to Legally Incapacitated Beneficiaries

The following provisions apply where an eligible beneficiary of death gratuity and/or UPPA, unless otherwise noted, is a minor or a mentally incapacitated adult.

##### 5.1 Time Limit for Claim

As set forth in subparagraphs, 2.5.2 and 3.2.2, there is a six-year limit for making a claim for death gratuity or UPPA. A beneficiary's legal disability (e.g., status as a minor or mentally incapacitated adult) does not toll or extend the time period for submission of a claim. An authorized representative must file a claim on behalf of the beneficiary within the six-year time limit.

##### 5.2 Minor Beneficiary

5.2.1. For purposes of this Chapter, a "minor" is a person who has not reached the age of majority under the law of the state where the person resides. Refer to Volume 7B, Appendix H for the age of majority by State and United States Possession.

5.2.2. If a minor is entitled to a death gratuity and/or UPPA in an amount of \$10,000 or less, then payment for the minor beneficiary may be made:

5.2.2.1. To the minor's parent, including an adoptive parent, as natural guardian when the parent provides a notarized statement attesting to all the following conditions.

5.2.2.1.1. A legal guardian has not been appointed for the minor beneficiary;

5.2.2.1.2. The parent has custody of the minor;

5.2.2.1.3. The parent will hold the payment for the sole use and benefits of the minor until the minor reaches adulthood;

5.2.2.1.4. The parent will account to the minor for such amount when the minor reaches adulthood; and

5.2.2.1.5. The parent will hold the government harmless in the event the minor, when he/she reaches the age of majority (adulthood), brings any legal action challenging the government's payment to the minor's parent.

5.2.2.2. To the minor's non-parent legal guardian where one has been appointed. The individual appointed as the legal guardian must provide a notarized statement attesting to all of the following conditions, as well as a certified copy of the court order appointing the legal guardian.

5.2.2.2.1. The individual has been appointed as the legal guardian of the minor;

5.2.2.2.2. The guardian will hold the payment for the sole use and benefit of the minor until the minor reaches adulthood;

5.2.2.2.3. The guardian will account to the minor for such amount when the minor reaches adulthood; and

5.2.2.2.4. The guardian will hold the government harmless in the event the minor, when he/she reaches the age of majority (adulthood), brings any legal action challenging the government's payment to the minor's guardian.

5.2.3. If a minor is entitled to a death gratuity and/or UPPA in an amount exceeding \$10,000, then payment may only be made to the guardian or conservator of minor's estate appointed by a court to receive such payments for the minor's benefit, even where the guardian or conservator is the child's parent, thereby providing the government a means of obtaining a good acquittance. A certified copy of the court order appointing the guardian or conservator of the minor's estate must be provided before payment can be made. Guardianship or conservatorship of the minor as a person is not sufficient.

5.2.4. For purposes of determining to whom payment can be made under subparagraphs 5.2.2 and 5.2.3, if a minor is entitled to payment of both death gratuity and UPPA, those amounts must be aggregated.

5.2.5. Payment of housing allowance provided for under section 4.0 may be made to a minor beneficiary's parent or legal guardian, regardless of the amount of the payment.

### 5.3 Mentally Incapacitated Adult

If an eligible beneficiary is an adult who has been determined under state law to be mentally incapacitated, mentally incompetent, or otherwise requiring a guardian, trustee, conservator, committee, or other such person to make decisions concerning the beneficiary's financial affairs, then payment may be made an appointed guardian, trustee, conservator, committee, or other such person. A certified copy of the court order making such appointment is required for payment under this Chapter.

### \*6.0 Prohibition of Payment to Beneficiary Who Killed Decedent

No payment of a benefit discussed in this Chapter may be made to a person who killed the decedent unless there is evidence that clearly absolves that person of any felonious intent. In the absence of such evidence, the eligible beneficiary for payment of the amount that would have otherwise been payable to that person is determined in accordance with the applicable designation of beneficiary or order of precedence as if that person had not survived the decedent.

\*Table 36-1. Eligible **Survivors Where No Designated Beneficiary** - Death Gratuity

<b>R U L E</b>	<b>Death gratuity is payable to the following living survivor(s) of the decedent</b>	<b>which is defined as</b>
1	lawful spouse	a man or woman legally married to <b>the decedent</b> at the time of death.
2	child, or children, without regard to age or marital status, in equal shares	a legitimate child.
3		a legally adopted child.
4		a stepchild if a member of the decedent's household <b>at the time of death</b> .
5		<p>an illegitimate child <b>of a female decedent; or</b></p> <p>an illegitimate child of a male decedent, if</p> <ul style="list-style-type: none"> <li>a. the decedent acknowledged the child in writing signed by him;</li> <li>b. a court determined the child to be the decedent's before his death;</li> <li>c. the decedent has been judicially ordered to contribute to the child's support; or</li> <li>d. the Secretary of the VA determined the child to be the decedent's.</li> </ul>
6	surviving parent(s) in equal shares	the natural father or mother; <b>or</b>
7		the father or mother through adoption.
8	other person(s)	any next of kin of the <b>decedent</b> entitled under the laws of the domicile of the member at the time of the <b>decedent's</b> death.

\*Table 36-2. Responsibility for Payment of Death Gratuity - General

R U L E	If the deceased	then payment is made by
1	was a member of the Army, Army National Guard, or Army Reserves	the Defense Finance and Accounting Service (DFAS) Indianapolis (IN) or the member's servicing finance center as specified in Table 36-3.
2	was a member of the Navy or Navy Reserves	DFAS Cleveland (CL) or the designated disbursing officer as specified in Table 36-4.
3	was a member of the Air Force, Air National Guard, Air Force Reserves, or Space Force	the Air Force Personnel Center (AFPC) - Operating Location (OL) IN.
4	was a member of the Marine Corps or Marine Corps Reserve	DFAS-CL as specified in Table 36-6.
5	is retired and dies within 120-days of retirement	DFAS-CL, Retired and Annuitant Pay
6	was discharged under honorable conditions, and dies within 120-days of separation	the DFAS site responsible for servicing the deceased member's military pay account.
7	is a member whose death is determined by administrative finding under the Missing Persons Act	the DFAS site responsible for servicing the deceased member's military pay account.
8	was a member of a Senior ROTC (SROTC)	the DFAS site responsible for servicing the deceased member's military pay account.
9	is a person who dies while traveling to, from, or while at a place for final acceptance or for entry upon active duty (other than for training) in the Military Service; who has been ordered or directed to go to that place, and who has been provisionally accepted for that duty; or selected, under the Military Selective Service Act, for duty in that Military Service	the DFAS site that would have maintained the individual's military pay account.

Table 36-3. Responsibility for Payment of Death Gratuity – Army

<b>R U L E</b>	<b>If the beneficiary is a(n)</b>	<b>then death gratuity is settled by</b>
<b>1</b>	Adult	the deceased members' servicing finance office. (note 1)
<b>2</b>	Minor	DFAS-IN.
<b>3</b>	Doubtful case (note 2)	DFAS-IN.

**NOTES:**

1. The deceased member's servicing finance office will be responsible for making payment for all adult beneficiaries who fall within the established guides of paragraph 2.3.
2. Doubtful cases include:
  - a. All cases coming under subparagraphs 2.6.1, 2.6.2, 2.6.3, or any questionable cases under paragraph 2.5;
  - b. Common-law widow or widower; or
  - c. A member's minor child, an adopted child without properly certified court adoption papers, and an illegitimate child.

Table 36-4. Responsibility for Payment of Death Gratuity - Navy

<b>R U L E</b>	<b>When eligibility of beneficiary or propriety of payment is</b>	<b>and determination is made that eligible beneficiary is</b>	<b>and</b>	<b>then death gratuity is paid by</b>
<b>1</b>	not doubtful	a lawfully designated beneficiary	Navy Casualty Assistance (N135C) certifies beneficiary and payment amount,	DFAS-CL upon authorization from N135C.
<b>2</b>	not doubtful	a lawfully designated beneficiary	beneficiary requests local payment, after N135C certifies beneficiary and payment amount,	the disbursing officer authorized by N135C to make payment.
<b>3</b>	doubtful (notes 1, 2, and 3)	required to be determined by N135C	N135C certifies beneficiary and payment amount,	DFAS-CL upon authorization from N135C.

**NOTES:**

1. Doubtful cases include “common law widow or widower.”
2. All cases coming under subparagraph 2.4.4 and paragraph 2.7 are doubtful cases.
3. Doubtful cases include a member’s minor child, adopted child without properly certified court adoption papers, and an illegitimate child.

\*Table 36-5. Responsibility for Payment of Death Gratuity - Air Force and Space Force

<b>R U L E</b>	<b>When eligibility of beneficiary or propriety of payment is</b>	<b>and determination is made that eligible beneficiary is</b>	<b>and</b>	<b>then death gratuity is settled by</b>
<b>1</b>	not doubtful	a lawful spouse (notes 1 and 2); or adult child or children (notes 2 and 3); or a designated relative (notes 2, and 4). Minor children are paid by DFAS along with those identified in rule 3	upon receipt of notification of death (note 5)	the <a href="#">AFPC - OL (IN)</a> .
<b>2</b>	not doubtful	a designated non-relative	upon receipt of notification of death (note 5)	the <a href="#">AFPC - OL (IN)</a> .
<b>3</b>	doubtful	one of those listed in notes 1, 2, and 3	upon receipt of notification of death (note 5)	the <a href="#">AFPC - OL (IN)</a> .

**NOTES:**

1. [AFPC – OL \(IN\)](#) settles death gratuity payment to “common-law widow or widower.”
2. [AFPC – OL \(IN\)](#) settles all cases coming under subparagraphs 2.6.1, 2.6.2, 2.6.3, and any questionable cases under subparagraph 2.4.4.
3. [AFPC – OL \(IN\)](#) settles doubtful cases, including: all minor children, all adopted children without properly certified court adoption papers, and all illegitimate children.
4. Relatives consist of a member’s parents, brothers, sisters, or any combination thereof.
5. If death occurs while a member is on a Permanent Change of Station move, then the “losing” home installation notifies.

Table 36-6. Responsibility for Payment of Death Gratuity - Marine Corps

<b>R U L E</b>	<b>When the CO determines that the eligible beneficiary is</b>	<b>and eligibility of beneficiary or propriety of payment is</b>	<b>and</b>	<b>and</b>	<b>then death gratuity is paid by</b>
<b>1</b>	a lawful spouse or a designated parent	not doubtful	the spouse or parent resides with the member at or near member's duty station or in the vicinity of the member's home port	the disbursing officer has access to member's pay and service records	DFAS-CL upon Commandant of the Marine Corps Casualty Section authorization.
<b>2</b>	a lawful spouse or a designated parent	not doubtful	the spouse or parent resides with the member at or near member's duty station or in the vicinity of the member's home port	payment is requested by the CO of an activity located in an outlying area	DFAS-CL upon Commandant of the Marine Corps Casualty Section authorization.
<b>3</b>	a lawful spouse or a designated parent	not doubtful	the spouse or parent resides with the member at or near member's duty station or in the vicinity of the member's home port	member's unit is deployed, and the CO of the deployed unit requests by message that payment be made	DFAS-CL upon Commandant of the Marine Corps Casualty Section authorization.
<b>4</b>	a lawful spouse, child or children, designated, or non-designated relatives (note1)	doubtful (notes 2, 3, and 4)	the spouse or parent resides with the member at or near member's duty station or in the vicinity of the member's home port	member's unit is deployed, and the CO of the deployed unit requests by message that payment be made	DFAS-CL upon Commandant of the Marine Corps Casualty Section authorization.
<b>5</b>	a lawful spouse, child or children, designated, or non-designated relatives (note1)	not doubtful	the relative did not reside with the member at or near member's duty station or home port	member's unit is deployed, and the CO of the deployed unit requests by message that payment be made	DFAS-CL upon Commandant of the Marine Corps Casualty Section authorization.
<b>6</b>	a lawful spouse, child or children, designated, or non-designated relatives (note1)	not doubtful	the relative did not reside with the member at or near member's duty station or home port	payment is requested by the CO of an activity located near residence of the designated beneficiary	DFAS-CL upon Commandant of the Marine Corps Casualty Section authorization.

Table 36-6. Responsibility for Payment of Death Gratuity - Marine Corps (Continued)

**NOTES:**

1. Relatives consist of a member's parents, brothers, sisters and other next of kin of the member entitled under the laws of domicile of the member at the time of the member's death.
2. Doubtful cases include "common law widow or widower."
3. All cases coming under subparagraph 2.4.4 and paragraph 2.7.
4. Doubtful cases include a member's minor child, an adopted child without properly certified court adoption papers, and an illegitimate child.

\*REFERENCES

## CHAPTER 36 – PAYMENTS ON BEHALF OF DECEASED MEMBERS

### 2.0 – DEATH GRATUITY

2.0.	10 U.S.C. § 1478(a)
2.1.	10 U.S.C. § 1475
2.2.	10 U.S.C. § 1476
2.2.2.2.	10 U.S.C. § 1480(b)
2.4.	10 U.S.C. § 1477
2.4.1.1.	Mills v. Secretary of the Army, 371 F. Supp. 3d 423, 429 (S.D. Ohio 2019)
2.5.	10 U.S.C. § 1479
2.5.2.1.	AR 637-1, para. 16-9 Department of the Air Force Instruction 36-3002M paragraph 4.9.3 Marine Corps Order 34040.4, Chapter 4, Section 3, para. 2(b) MILPERSMAN 1770-280, para. 12(d)
2.5.2.2.	31 U.S.C. § 3702
2.6.	10 U.S.C. § 1479 10 U.S.C. § 1477
2.7.1.	10 U.S.C. § 1480(a)
2.7.2.	29 Comp Gen 294
2.7.3.	31 Comp Gen 645
2.8.2.	26 U.S.C. § 134(b)(3)(C)
2.11.	37 Comp Gen 131

### 3.0 – SETTLING DECEASED MEMBERS' ACCOUNTS

3.1.	10 U.S.C. § 2771
3.1.1.	37 U.S.C. § 501(d)
3.1.1.1.	37 U.S.C. § 427(a)(2)
3.1.1.2.	DoDI 1340.26, September 25, 2017, Change 1 Effective January 11, 2019 para. 4.4
3.2.	10 U.S.C. § 2771
3.2.2.2.	31 U.S.C. § 3702
3.3.	Comp Gen B-187037
3.4.2. and 3.4.3.	Comp Gen B-91021, February 6, 1950 10 U.S.C. § 2771
3.5	Comp Gen B-696787-O.M., May 2, 1979
3.7.1.	37 U.S.C. § 212(c) 37 U.S.C. § 1006(d)
3.7.2.	37 U.S.C. § 1006 (h)

4.0 – Housing Allowance Following Service Member’s Death

37 U.S.C. § 403(l)

5.0 – Payments to Legally Incapacitated Beneficiary

31 U.S.C. § 3702  
Defense Office of Hearings and Appeals Claims  
Case No.02082608 (March 26, 2003)

6.0 – Prohibition of Payment to Beneficiary Who Killed Decedent

34 Comp Gen 103

Table 36-2

Air Force Manual (AFMAN) 65-116,  
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Table 36-3

Military Pay E-Message 09-020

Table 36-4

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Table 36-5

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