Payments: A Person Dies Before Receiving Payment

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Table of Contents

Purpose
Policy
Definitions
General
References

Purpose

The purpose of this policy is to provide direction on how to administer a payment when a person dies before having received the payment from the Department under the *Veterans Well-being Act* (previously known as the *Canadian Forces Members and Veterans Re-establishment and Compensation Act*).

Policy

Definitions

1. For the purposes of this policy, as per the Payments subsection 87.1(3), a survivor is defined as a person who, at the time of a person's death, was a spouse or common-law partner.
2. "Spouse" refers to a person who is married to and residing with another person. For details on couples living apart and recent marriage, refer to the policy Definition of Survivor for the Purposes of Disability and Death Benefits.
3. "Common-law partner" refers to a person who is cohabiting with another person in a conjugal relationship and has done so for a period of at least one year. For further detail, refer to the policy entitled Establishment of a Common-Law Partnership.
4. The term "survivor" excludes surviving separated spouses, surviving former (divorced) spouses, and surviving former common-law partners.
5. A "person" refers to a member, Veteran, spouse, common-law partner, survivor, child, orphan or dependent entitled to any benefit under the *Veterans Well-being Act*.
6. The above definitions for survivor only apply for the determination of payments when a person dies prior to receiving their payment(s), under section 87.1.
7. The definition of a survivor as defined in subsection 2(1) of the *Veterans Well-being Act* still applies for determining survivor eligibility and entitlement for applicable benefits and are not affected by the Payments section (87.1).

General

8. The rules set out in the Payments section (87.1) of the *Veterans Well-being Act* do not replace the Eligibility rules for each of the benefits under the Act. The Payments section only applies when an amount is payable to a person who dies before receiving it.
9. Under the *Veterans Well-being Act*, subsection 87.1(1) for Payments states that any amount that is payable to a person, who dies before receiving the payment, is to be paid to their survivor.
10. Amount payable under the Act means a payment amount that has already been determined and is in transition or is a payment that is outstanding to a person. For example, a cheque has been issued and the person dies before receiving the cheque or a benefit has been approved but the person dies before the first payment has been issued.
11. If the person does not have a survivor or the survivor dies before receiving the payment, then the payment is to be paid to the person's estate or succession, as per subsection 87.1(2).
12. If a survivor is not identified within a reasonable amount of time, and the Department has made a reasonable effort to identify a survivor on behalf of the deceased person, then the payment will be paid to the person's estate or succession. Reasonable efforts and reasonable amount of time will be determined at the Department's discretion on a case by case basis.
13. If a payment has been returned to Veterans Affairs Canada, then that payment will be dealt with on a case by case basis in accordance with section 87.1.

References

Veterans Well-being Act - subsections 2(2), 2(4), section 87.1

Definition of Survivor for the Purposes of Disability and Death Benefits

Establishment of a Common-Law Partnership