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## Section I. Survivor Benefit Plan (SBP)

### Overview

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**In this Section** This section contains the following topics:

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## 41. General Information on the SBP and DIC Offset

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**Introduction** This topic contains general information on the Survivor Benefit Plan (SBP) and Dependency and Indemnity Compensation (DIC) offsets. It includes information on

- the provisions of SBP
  - the definition of *basic DIC*
  - service department payments to a claimant entitled to both SBP and DIC benefits
  - handling cases with no potential entitlement to SBP
  - contact with military finance centers, and
  - processing SBP cases at the Manila regional office (RO).
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**Change Date** April 13, 2009

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**a. Provisions of SBP** Effective September 21, 1972, the Survivor Benefit Plan (SBP) was established under *Public Law (PL) 92-425* for

- retired service personnel, and
  - commissioned officers of the
    - Public Health Service (PHS), and
    - National Oceanic and Atmospheric Administration (NOAA).
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**b. Definition: Basic DIC** For purposes of this section, *basic Dependency and Indemnity Compensation (DIC)* means the rate payable to the surviving spouse as if there were no children (total dependency code 10) based on the veteran's pay grade or the rate specified under [38 U.S.C. 1311\(a\)\(1\)](#), as applicable, excluding any allowance for Aid and Attendance (A&A).

**Important:** In an apportionment case, if the amount paid to the surviving spouse is *less* than the basic DIC, consider the lesser amount to be "basic DIC" for the purposes of this section.

**Reference:** For more information on the DIC rate payable, see [M21-1MR, Part IV, Subpart iii, 3.A.5.](#)

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## 41. General Information on the SBP and DIC Offset, Continued

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**c. Service Department Payments to a Claimant Entitled to Both SBP and DIC**

When a claimant is entitled to both the SBP and DIC, the military finance center will pay

- *only* the amount of SBP in excess of the basic DIC rate payable to a surviving spouse, and
  - the full amount of SBP to a child or parent, since there is no bar against full payment of both benefits.
- 

**d. Handling Cases With No Potential Entitlement to SBP**

Process any case with no potential entitlement to SBP, without referring it to the finance activity.

Awards not referred to the finance activity must be

- approved and signed by the Veterans Service Representative (VSR)
- approved by an authorizer, and
- reviewed, signed, dated, and marked with the annotation “*No SBP payable*” in the lower right margin beneath the authorizer’s signature on the award print, by an individual within the division designated by the Veterans Service Center Manager (VSCM).

**Note:** If there is any question as to whether or not SBP is payable, process the award and refer to [M21-1MR, Part IV, Subpart iii, 3.I.44.e](#).

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**e. Contact With Military Finance Centers**

The finance activity takes deduction actions and makes telephone contact with the military finance centers.

After necessary adjustment, reduction, or termination of the SBP annuity, the military finance center informs the regional office (RO) if any additional offset is required.

**Note:** The VSR refers the notice from the military finance center, with the claims folder, to the finance activity for necessary action.

**Reference:** For information on notice to service departments concerning SBP benefits, see [M21-1MR, Part V, Subpart iii, 6.5](#).

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## 41. General Information on the SBP and DIC Offset, Continued

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**f. Processing  
SBP Cases at  
the Manila RO**

The Manila RO follows the procedures described in this section, with the following exceptions:

- two-step award processing is not required, since the finance activity establishes and maintains accounts receivable locally, and
  - contact is made with the military finance centers by teletype rather than by telephone.
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## 42. A Surviving Spouse's Benefit and Potential Offset

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**Introduction** This topic contains information on a surviving spouse's benefit and potential offset. It includes information on

- Department of Veterans Affairs (VA) and service department policies concerning payment of DIC and SBP
  - message on DIC awards indicating potential entitlement to SBP
  - determining the surviving spouse's benefit rate for the
    - month of death, and
    - month of death when death is SC
  - handling an overpayment of SBP, and
  - effective dates of DIC and SBP.
- 

**Change Date** April 13, 2009

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**a. VA and Service Department Policies Concerning Payment of DIC and SBP**

The Department of Veterans Affairs (VA) has no regulation preventing a surviving spouse from receiving DIC based on the death of one veteran (A) while also receiving SBP based on the death of another veteran (B).

The service department *does* prohibit a surviving spouse from receiving DIC based on the death of one veteran while also receiving SBP based on the death of another veteran.

VA will honor the service department prohibition if the service department submits a request for DIC offset for veteran (A) that is signed by the surviving spouse.

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**b. Message on DIC Awards Indicating Potential Entitlement to SBP**

Due to the potential for large overpayments in DIC awards to surviving spouses also entitled to SBP, the message, *refer to finance for SBP a/r review*, appears each time an original DIC award to a surviving spouse is generated and printed (GAP).

SBP is payable to a surviving spouse only if the deceased spouse was

- a service retiree, or
- eligible to retire at the time of death but was still on active duty.

**Note:** Finance Activity procedures are found in [MP-4, Part IV, Chapter 3](#).

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## 42. A Surviving Spouse's Benefit and Potential Offset,

Continued

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**c. Determining the Surviving Spouse's Benefit Rate for Month of Death**

Under [38 CFR 3.20](#), a surviving spouse's benefit rate for the month of the veteran's death may not be less than the rate of disability compensation or pension the veteran would have received if not for his/her death.

**Important:** This applies only to the rate of payment and does not redefine the death benefit being paid.

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**d. Determining the Surviving Spouse's Benefit Rate for Month of Death When Death Is SC**

If death was service-connected (SC), the benefit payable for the month of death is DIC and not disability compensation or pension. Do *not* consider the veteran's rate for the month of death as the DIC rate for reporting purposes.

When replying to service department inquiries, furnish the

- basic DIC rate per [38 CFR 3.5](#), and
- award effective date (for example, the first day of the month of the veteran's death).

**Note:** The "basic DIC rate" includes the additional allowance payable under [38 U.S.C. 1311\(a\)\(2\)](#) to the surviving spouse of a veteran who was

- rated as totally disabled for at least eight continuous years, and
  - married to the surviving spouse for the same period of time.
- 

**e. Handling an Overpayment of SBP**

If SBP was paid to a surviving spouse entitled to DIC, VA offsets any overpayment of SBP from the DIC award in an amount not greater than the basic DIC payable.

The finance activity sends the amount offset to the appropriate military finance center.

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**f. Effective Dates of DIC and SBP**

The effective dates of DIC and SBP do not coincide since the effective date of

- an SBP annuity is always the day following the date of death, and
  - DIC is determined under [38 CFR 3.400](#).
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## 43. Service Department Handling of SBP Payments

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**Introduction** This topic contains information on service department handling of SBP payments. It includes information on

- the initial action taken by the military finance center
  - the action taken when no claims folder exists, and
  - how the RO of jurisdiction is determined.
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**Change Date** April 13, 2009

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**a. Initial Action Taken by the Military Finance Center**

The military finance center

- begins payment, regardless of whether or not DIC is payable, if a surviving spouse is entitled to SBP, and
- sends notification to the RO of jurisdiction that provides information as to when SBP payments begin.

*Note:* The military finance center is not required to send VA a signed authorization from the surviving spouse to offset DIC based on SBP payments. By signing the application for SBP, the surviving spouse authorizes VA to offset DIC based on SBP payments.

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**b. Action Taken When No Claims Folder Exists**

If notification is received from the military finance center and BIRLS shows that no claims folder exists, establish a VA claims folder and include sufficient information to alert the next person who reviews the folder of a potential DIC-SBP payment overlap, should DIC be awarded to the annuitant at a later date.

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**c. How the RO of Jurisdiction Is Determined**

The RO of jurisdiction is

- indicated by the military finance center's records, and
- determined, if not of record, based on
  - beneficiary residence, or
  - the address to which the payments are provided.

*Example:* If the payments are sent to an address in San Francisco, CA, the Oakland RO is the RO of jurisdiction and would be notified.

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## 44. Department of Veterans Affairs (VA) Action in Response to a Service Department Notice Concerning SBP

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**Introduction** This topic contains information on VA action in response to a service department notice concerning SBP. It includes information on

- the action taken upon receipt of notice from a service department
  - considering a DIC claim not timely filed
  - the action taken
    - if a claim was not filed, is pending or was denied
    - if a DIC award is running.
    - if there is potential entitlement to SBP, or
    - based on information in the report of contact
  - how to amend an award, and
  - providing notice to a claimant.
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**Change Date** April 13, 2009

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**a. Action Taken on Receipt of a Notice From a Service Department** On receipt of a notice from a service department concerning SBP, take appropriate outlined in this topic.

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**b. Considering a DIC Claim Not Timely Filed** Deductions for an SBP overpayment can be made *only* from the effective date of the DIC award, instead of the effective date of SBP payments, if

- a DIC claim is not filed within one year from the date of death of a veteran, and
- the claimant is receiving SBP.

**Note:** Annotate the *Optional Form 41, Routing and Transmittal Slip*, and send the form to the finance activity to alert the finance activity of the effective date of the award.

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## 44. Department of Veterans Affairs (VA) Action in Response to a Service Department Notice Concerning SBP, Continued

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**c. Action Taken if a Claim Was Not Filed, Is Pending, or Was Denied**

If a claim for DIC was *not* filed, is pending, or was denied

- check the appropriate block on the form received from the inquiring military finance center to show the status of the case
  - return the form to the military finance center, and
  - flag the claims folder with a file flash.
- 

**d. Action Taken if a DIC Award Is Running**

Follow the steps in the table below when notice concerning SBP is received that involves a running DIC award.

Step	Action
1	Enter special law (SL) code 06 in the master record to ensure system-generated notification to the military finance center when the DIC award is amended or terminated.
2	Annotate <i>Optional Form 41</i> to show the basic DIC rate to be used by the finance activity when processing deduction action, since the basic DIC rate may be different from the DIC rate being paid.
3	Route the folder, using <i>Optional Form 41</i> , to the finance activity to obtain a statement of the amount of SBP payment to be deducted from the DIC award.
4	Ensure that the finance activity returns the folder within five workdays.
5	Review the <ul style="list-style-type: none"> <li>• folder after it is returned by the finance activity to ensure that deduction action was taken, and</li> <li>• master record to ensure entry of SL code 06 did not reject.</li> </ul>

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## 44. Department of Veterans Affairs (VA) Action in Response to a Service Department Notice Concerning SBP, Continued

**e. Action Taken if there Is Potential Entitlement to SBP**

The table below describes the appropriate action taken when

- an original award of DIC is made to a surviving spouse, and
- there is evidence in the folder that the payee is entitled, or is potentially entitled, to SBP.

Stage	Who Is Responsible	Description
1	VSR	<ul style="list-style-type: none"> <li>• Prepares the DIC award</li> <li>• enters a generate and display (GAD) command in the NEXT SCREEN field</li> <li>• makes a copy of the displayed award</li> <li>• shows the basic DIC rate on the award</li> <li>• does <i>not</i> generate and print (GAP) the award</li> <li>• refers the award and the claims folder to the finance activity, and</li> <li>• maintains control to ensure the folder is returned within five workdays.</li> </ul>
2	Finance activity	<ul style="list-style-type: none"> <li>• Completes a report of contact, and</li> <li>• returns the folder to the VSC.</li> </ul> <p><b>Reference:</b> For the appropriate action to take based on the report of contact, see <a href="#">M21-1MR, Part IV, Subpart iii, 3.I.44.f.</a></p>

**Notes:**

- If the pay grade is required and not known, the Retired Pay Coordinator *must* telephone the military finance center to obtain the correct pay grade.
- Do *not* file the copy of the displayed award in the claims folder. Instead
  - file the report of contact in the claims folder, and
  - destroy the awards in accordance with *RCS VB-1, Part I, Item No. 13-052.400.*

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## 44. Department of Veterans Affairs (VA) Action in Response to a Service Department Notice Concerning SBP, Continued

### f. Action Taken Based on Information in the Report of Contact

Use the table below to determine the action taken based on information in the report of contact.

If the report of contact shows there is ...	Then ...
no SBP entitlement	<ul style="list-style-type: none"> <li>• GAP the award</li> <li>• do not enter SL code 06, and</li> <li>• authorize the action (using the CAUT command), as appropriate.</li> </ul>
<ul style="list-style-type: none"> <li>• entitlement to SBP, and</li> <li>• there is no amount to be recovered</li> </ul>	<ul style="list-style-type: none"> <li>• GAP and authorize the award, and</li> <li>• enter SL code 06 on the award line.</li> </ul>
an amount of SBP for offset	<ul style="list-style-type: none"> <li>• enter the total withholding on the award line using a type 1 withholding from the date of entitlement</li> <li>• use SL code 06</li> <li>• suppress the award letter</li> <li>• maintain the pending issue</li> <li>• route the claims folder to the finance activity for appropriate action to establish the offset after the award showing total withholding has been authorized, and</li> <li>• do <i>not</i> take the appropriate end product (EP) at this time.</li> </ul> <p><i>Note:</i> Deliver claims folders that require offset to the finance activity daily.</p>

**Reference:** For more information on processing an amended award, see [M21-1MR, Part IV, Subpart iii, 3.I.44.g.](#)

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## 44. Department of Veterans Affairs (VA) Action in Response to a Service Department Notice Concerning SBP, Continued

**g. How to Amend an Award**

Follow the steps in the table below to amend an award.

Step	Action
1	Ensure that the offset appears on the M01 screen when the folder is returned from the finance activity.
2	<ul style="list-style-type: none"> <li>• Use SL code 06, and</li> <li>• remove the withholding (enter “0” under Type withholding) to pay the full amount of DIC to which the claimant is entitled.</li> </ul> <p><i>Result: When the award is generated, the legend <i>A/R exists--refer to finance if retroactive increase is involved</i> is displayed.</i></p>
3	Send the award, with the claims folder, to the finance activity for necessary action to collect the accounts receivable (FISA).
4	Leave the EP pending until the folder is returned from the finance activity and the award is authorized.

**h. Providing Notice to Claimant**

In all DIC awards involving a SBP deduction

- suppress the system-generated letter, and
- prepare a locally-generated award letter per [38 CFR 3.103\(e\)](#) that fully advises the claimant
  - of the award, and
  - that the award is subject to offset for concurrent payments of the SBP annuity.

In original or reopened DIC awards involving SBP benefits, enclose *VA Form 21-8765, Service-Connected Death Award Attachment*, with the locally-generated award letter.