

**OPINION
52-198**

April 3, 1952 (OPINION)

VETERANS

RE: Adjusted Compensation, Rights of Survivors

An opinion is requested from this office concerning the following factual situation as set forth in your request.

Upon receipt of an application from one of the beneficiaries it is found that there are five eligible beneficiaries for the claim. Only one beneficiary applies and the remaining beneficiaries either elect to apply at a subsequent date, or else cannot be contacted. The applicant is therefore paid one-fifth of the \$600.00, or \$120.00. Two years later another application is received from one of the beneficiaries. During this two year period, two of the other eligible beneficiaries have died and the applicant is submitting an application as one of the three survivors."

Question 1. What is the proper amount payment due the beneficiary who has submitted a claim as one of three survivors?"

Question 1. As stated in our opinion dated April 3, 1952, each eligible beneficiary may submit an application at any time within the five year period and payment will be made to each applicant on the basis of the number of eligible beneficiaries of the veteran at the time of payment. Thus, when the first applicant applied, there was \$600 that could be applied for, of which he received \$120 as one of five beneficiaries eligible at the time payment was made. When applicant No. 2 applied, there remained \$480 of the possible \$600 that could be applied for. The applicant No. 2 was at the time of the application one of three survivors. Applicant No. 1 had applied and received his share and therefore the balance is to be divided between the remaining possible beneficiaries. Applicant No. 2 therefore is entitled to one half the balance which would be \$240. The rights of the parties must be determined at the time of payment.

Question 2. If at the end of five years no other beneficiaries of this claim file claims, what happens to the balance of the \$600.00 due to the veteran's beneficiaries?"

If at the end of five years the remaining beneficiary does not file a claim, the balance of the \$600 that could possibly been claimed remains with the state. This is under the theory that there is only a possibility of applying for and receiving the minimum \$600 and that, therefore, there is no question of reversion or payment at the end of five years of the balance to the surviving beneficiaries.

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