**Section 104.40 Compensation Payments to Survivors**

a) Survivor Compensation

Payment of $1,000 will be made to the widow or widower, child or children, mother and/or father, person standing in loco parentis, or brothers and/or sisters, in the order named, of any deceased person with a service-connected death who would be entitled to compensation under Section 2 of the Act, if still living.

b) Proof of Death of Eligible Veteran

1) Proof of Death While in Service

A copy of the letter from the Armed Forces to the next of kin announcing the death must be submitted with an application for compensation under the Act.

2) Death Resulting from Service-Related Disability

A) If the death resulted from a Viet Nam Campaign service-connected disability, a copy of the death certificate must be furnished. The death of the veteran will be considered as having been due to a service-connected disability when the evidence establishes that the disability was either the principal or contributory cause of death.

B) Evidence of contributory causes must be supported by:

i) Statements from the U.S. Department of Veterans Affairs that the contributory causes have been established to the satisfaction of the VA and dependency compensation awarded;

ii) Statements from physicians who have been aware of the nature and degree of the veteran's service-connected disabilities; or

iii) Statements from other persons who possess knowledge of the disability and the contributory causes.

C) Non-eligible Disabilities

Other service-connected disabilities will not entitle the person to compensation.

c) Proof of Eligibility

The survivors applying for compensation shall prove that the veteran is deceased, furnishing a copy of the official notification of death. Additionally, each category of survivor shall submit the following additional documentation:

1) A spouse making application must prove marriage of the parties and that they were legally married at the time of the death of the veteran.

2) A child making application must prove:

A) Legal marriage of the veteran and the other parent of the child.

B) That the veteran's legal spouse is now deceased or was divorced from the veteran. A copy of the death certificate or divorce decree shall be attached.

3) A parent making application must prove:

A) That the veteran was unmarried or, if married, that the spouse is deceased or was divorced from the veteran. A copy of the death certificate or divorce decree shall be attached.

B) That, if the veteran was married, there were no children or, if there were children, all are deceased. A copy of the death certificate shall be attached.

C) If only one parent is applying, that the other parent is deceased. A copy of the death certificate shall be attached.

D) That the veteran was the son or daughter of the claimant. A copy of the birth certificate shall be attached.

4) A person standing in loco parentis must prove that he or she stood in that capacity to the veteran and must comply with the requirements of subsection (c)(3).

5) A sibling must comply with the requirements of subsections (c)(1) and (2) and must prove:

A) That both parents of the veteran are deceased and that no one stood in loco parentis to the veteran. Copies of death certificates will suffice to prove death. Affidavits of responsible persons having knowledge of the facts should be sufficient to show that no one stood in loco parentis toward the veteran.

B) That a relationship of brother or sister existed between the applicant and the veteran. Affidavits of responsible persons shall accompany the application.

d) Succeeding Survivors

When a survivor fails to file a claim for compensation within 2 years after the official notice of the death of the veteran, the Department may consider applications from succeeding survivors. The order of succession is as stated in subsection (a).