

## INFORMATION PAPER

DAPE-HR-RSO  
10 January 2010

SUBJECT: Annuity for Certain Military Surviving Spouses (ACMSS)

1. Purpose. To provide information on the ACMSS program, the eligibility requirements, and application procedures.

2. References.

a. Public Law 105-85, 18 November 1997.

b. Public Law 106-65, 5 October 1999.

3. Background.

a. When Congress established the Survivor Benefit Plan (SBP) on 21 September 1972 and Reserve Component SBP (RCSBP) on 1 October 1978, they inadvertently created a group of widows whose spouses died before being able to participate in SBP or RCSBP.

b. The above referenced Public Laws created the ACMSS program to provide a small annuity to these surviving spouses. The initial ACMSS annuity was \$165, but increases with the yearly COLA in the same manner as SBP. The annuity is not subject to the Barring Act, Title 31 U.S.C. § 3702(b). However, the annuity can only be paid retroactive six years from the date of approval. Currently the ACMSS annuity is \$229.89 a month and the retroactive ACMSS is approximately \$15,600.

4. ACMSS Eligibility.

a. Surviving spouse of a retiree who retired prior to 21 September 1972 and died prior to 21 March 1974 or spouse of a Reservist eligible for reserve retirement at age 60 who died prior to 1 October 1978.

b. Was legally married to deceased retiree or Reservist at the time of death.

c. Surviving spouse must never have remarried or ACMSS is lost even if that marriage ends. Surviving spouses whose first remarriage following the death of retiree or Reservist is within the six years of eligibility prior to the date the ACMSS application is approved, will receive the portion of the ACMSS annuity that represents the annuity from the six years previous to the date of the ACMSS application approval to the date of the first marriage. If the surviving spouse's first remarriage was more than six years previous, the surviving spouse is not eligible even if the marriage was after the enactment of the ACMSS laws.

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d. If receiving another military annuity for a deceased military retiree, active duty death, or Reservist; a surviving spouse is not eligible for ACMSS. The two disqualifying military annuities are SBP and Minimum Income Widow (MIW). The Minimum Income Widow's (MIW) benefit was enacted by Public Law 92-425, the same law that enacted SBP. The widow must be receiving VA's non-service connected death benefit and the member had to have been retired before 21 Sep 72 and died before 20 Mar 74).

e. Surviving spouses otherwise eligible who are receiving Dependency and Indemnity Compensation (DIC) will have the ACMSS annuity offset dollar for dollar by the DIC. However, they are eligible for the ACMSS and need to establish an account. There is proposed legislation that if enacted would extend the Special Survivor Indemnity Allowance (SSIA) to ACMSS recipients.

#### 5. Application Procedures.

a. Surviving spouses applying for ACMSS must complete an Application for Annuity Certain Military Surviving Spouses (DD Form 2769) and submit the annuity to the deceased retiree's or Reservist's corresponding service for approval. The ACMSS approval for the surviving spouses of Army retirees and Army Reserve or Army National Guard is the Chief, Army G-1 Retirement Services Office. The ACMSS application and required documentation will be mailed for adjudication to Army Retirement Services; Attn: DAPE-HR-RSO; 200 Stovall Street; Alexandria, VA 22332-0470.

#### b. Required Documentation.

(1) A copy of a retirement order or copy of Notice of Retirement Eligibility (20-Year Letter) or other official service document showing deceased member's retired status. For Reservists, a Statement of Service from the Army Reserve or National Guard showing 20 or more years of Reserve service for retirement may be used if the 20-Year Letter is unattainable.

(2) A copy of the deceased retiree's final DD Form 214 (Certificate of Discharge).

(3) A certified true copy of the deceased retired member's death certificate

(4) A certified true copy of surviving spouse's certificate of marriage to the deceased retired member.

#### c. Completion of the ACMSS Application (DD Form 2769).

(1) Section I. Complete the information on the deceased retiree or Reservist.

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(2) Section II – Eligibility criteria must be completed and the surviving spouse must meet all the eligibility criteria to submit the ACMSS Application. Since ACMSS is based on Public Law, none of the eligibility criteria can be waived.

(3). Surviving spouses who meet the eligibility criteria in Section II must complete Sections III, IV, V (if applicable), and VI. Applications without the proper signatures and dates in Section VI will be returned for completion without adjudication.

6. Application Approval. The Chief, Army Retirement Services Office will approve the ACMSS applications for surviving spouses who met the eligibility criteria and provided the required documentation. Army G-1 RSO will provide the Defense Finance and Accounting Service - Cleveland (DFAS-CL) the original approved DD Form 2769 with copies of the required documentation to establish the ACMSS annuity. The Chief Army RSO will provide the surviving spouse a letter informing them of the ACMSS approval, a copy of the approved DD Form 2769, and the original documentation.

7. Application Disapproval. ACMSS applications for surviving spouses who either do not meet the ACMSS eligibility or failed to provide the required documents to verify eligibility will be returned with a letter of explanation from the Chief Army G-1 RSO.

8. Way Ahead: Since the military services did not maintain a database of non-annuitant surviving spouses, they had no way to directly contact possible ACMSS eligible surviving spouses. The Army made efforts in the past to spread information of the annuity among members of the active and retired military communities. The September – December 2010 issue of the Army Echoes contained an article on ACMSS requesting readers to contact and refer anyone they think may be eligible for ACMSS to the nearest installation RSO for assistance.

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