

Child Care Payments for Children of a Deceased Veteran

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Policy

1. Purpose

- 1.1 This Policy provides guidance on administering entitlements for **Child Care Payments** for children of a deceased Scheme Two **veteran** whose death was related to Scheme Two qualifying operational service.
- 1.2 Child Care Payments are for the purpose of assisting:
- the surviving spouse or partner with child care so that they may continue or maintain employment or undertake vocational rehabilitation; or
 - the designated caregiver of the child(ren) when both the parents are deceased (evidence – e.g. a Court Order - that the caregiver is the legal carer of the child(ren) is required).

2. Legislative Reference

- 2.1 The relevant legislation is section 7 and Part 4, Schedule 2, clauses 52 and 64 to 67 of the Veterans' Support Act 2014; and regulations 16A and 73 of the Veterans' Support Regulations 2014.

3. Eligibility for Child Care Payments

- 3.1 A child of a deceased veteran whose death was related to Scheme Two qualifying operational service is eligible for Child Care Payments if they are:
- under 14 years of age; or
 - 14 years of age or over and they need child care because of a physical or mental condition.
- 3.2 For the purposes of this policy any child of a Scheme Two veteran who is born within 12 months after the veteran's service-related death is deemed to be:
- dependent on the veteran at the date of the veteran's death; and
 - under the care of the surviving parent of the child on that date.

Clause 52 of Schedule 2 of the Veterans' Support Act 2014

4. Circumstances that exclude or limit entitlement

- 4.1 Veterans' Affairs will not fund child care following a veteran's service-related death if:
- child care payments for the children concerned are payable under the Accident Compensation Act 2001 (although Veterans' Affairs will pay any difference between child care payments payable under the Accident

Corporation Act 2001 and those payable under the Veterans' Support Act 2014); or

- the child is already receiving Child Care Payments because of the death of another veteran.

Clauses 65 and 66(3) of Part 4, Schedule 2 of the Veterans' Support Act 2014

Disqualifying circumstances

4.2 A claim for Child Care Payments may be excluded if, when the veteran died, they were:

- a deserter
- absent without leave
- was committing an offence.

Section 28(a) & (b) of the Veterans' Support Act 2014

4.3 Veterans' Affairs may, however grant Child Care Payments if it is satisfied on reasonable grounds that exclusion for the above reasons would be unfair to the claimant (e.g. because the desertion or absence of the veteran parent without leave was brief, or the offence was minor in nature).

Section 28(1A) of the Veterans' Support Act 2014

4.4 A claim for Child Care Payments may also be excluded if the veteran's death was predominantly caused by any one of the following:

- use of alcohol or tobacco products
- misuse of illegal or prescription drugs
- contracting of a sexually transmitted disease.

Section 28(1)(d) of the Veterans' Support Act 2014

4.5 Veterans' Affairs may, however, grant Child Care Payments if satisfied on reasonable grounds that—

- the veteran's death was due to a psychological condition that was attributed to or aggravated by the experience of the veteran during qualifying operational service, or
- the injury or illness leading to the veteran's death was itself a psychological condition (for example, alcohol use disorder) that was attributed to or aggravated by the experiences of the veteran during qualifying operational service, or
- in the case of a sexually transmitted disease, the disease resulted from being sexually assaulted.

Section 28(2) of the Veterans' Support Act 2014

- 4.6 Claims in relation to a veteran's death that is wholly or substantially due to the ageing process will be declined.

Section 28(4) of the Veterans' Support Act 2014

End of Life Choice

- 4.7 Veterans' Affairs will not exclude Child Care Payments where the veteran parent with a terminal condition related to Scheme Two qualifying operational service, and who was not suffering from any form of mental disorder or mental illness, ended their life through assisted dying in accordance with **sections 5 and 6 of the End of Life Choice Act 2019**.

5. Applications for Child Care Payments

- 5.1 Application for Child Care Payments to a child (children) of a veteran who has suffered service-related death must be made on the appropriate application form on behalf of the child by the person who is responsible for arranging the child's care.

Clauses 64(1) and 67(1) of Part 4, Schedule 2 of the Veterans' Support Act 2014

6. Start and duration of entitlement

- 6.1 Child Care Payments begin on whichever is the latest of:

- 7 December 2015
- the date when the veteran died (if service-related death)
- the date the veteran's qualifying operational service was declared.

The entitlement is for the duration that Veterans' Affairs determines on a case by case basis.

7. End of Entitlement

- 7.1 Entitlement to child care payments will cease on the earlier of:

- a date determined at Veterans' Affairs discretion based on:
 - whether the surviving parent or carer is employed, or has a new spouse or partner
 - the number of the veteran's children
 - where the child or children live, including accessibility of organised child care
 - other relevant circumstances of the family;

AND

- the date the child reaches 14 years of age; or
- if the child is older and needs continuing care due to a physical or mental condition, the child ceases to need child care
- the date the child dies.

Clauses 65 and 66(2)&(2A) of Part 4, Schedule 2 of the Veterans' Support Act 2014

- 7.2 The entitlement is for the duration that Veterans' Affairs determines according to the factors set out in the above paragraph. However, the maximum duration of the entitlement cannot be more than, and ends, when a child turns 14 years of age, which is the legal age at which a child can be safely left without care.
- 7.3 Veterans' Affairs will stop child care payments as soon as it is advised of the death of the child and will not seek to recover any debt associated with overpayments that occur within the first 28 days following the death.

8. Payments

- 8.1 On receipt and approval of the signed application, Veterans' Affairs will make payments for child care on and from the date of death of the deceased veteran. The payments will be made to the person who is responsible for arranging the child's care.

Clauses 64(1), 66 (1) and 67(1) of Part 4, Schedule 2 of the Veterans' Support Act 2014

- 8.2 Veterans' Affairs is not obliged to see to the application of any money paid to a caregiver who is arranging the child's care, nor is it liable to the child for any such payment. In other words, if the person receiving the payments spends them on things other than child care, Veterans' Affairs takes no responsibility for this and the child is not entitled to additional payments.

Clause 67(2) of Part 4, Schedule 2 of the Veterans' Support Act 2014

- 8.3 Weekly payment amounts are set by the Veterans' Support Regulations 2014 and are CPI adjusted on an annual basis. Different amounts may be set according to the number of children of the deceased veteran. **See Veterans' Affairs website for amounts of weekly payments for child care.**

Section 31 and Clause 64(2) and (4) of Part 4, Schedule 2 of the Veterans' Support Act 2014 and regulations 16A and 73 of the Veterans' Support Regulations 2014

- 8.4 Recipients of Child Care payments using New Zealand bank accounts will receive Child Care payments on a fortnightly basis.
- 8.5 Child Care Payments paid to an overseas bank account are paid on a four-weekly basis.
- 8.6 Veterans' Affairs is not responsible for any administration costs incurred by or on behalf of the child in purchasing child care.

Clause 64(3) of Part 4, Schedule 2 of the Veterans' Support Act 2014

9. Living Overseas

- 9.1 The policy on Child Care Payments applies equally to the children of all New Zealand veterans, irrespective of their country of residence.
- 9.2 Overseas entitlements do not affect the payment of New Zealand entitlements. However, other countries may view New Zealand entitlement payments as income which could impact on payments received from those countries. Recipients may also be required to pay tax on payments received. Veterans' Affairs is to advise recipients of the need to contact the appropriate local agency to ascertain what, if any, impact the receipt of Child Care Payments will have at the time the entitlement is granted.

10. Reviews, Appeals and Complaints

- 10.1 If a claimant disagrees about a decision concerning eligibility for an entitlement or service **see separate policies on Reviews and Appeals**. If a claimant is concerned about Veterans' Affairs' administration of an entitlement or service **see separate policy on Complaints**.

11. Resolution of claims after death

- 11.1 Where Veterans' Affairs has received a claim and it has not been resolved prior to the claimant's death, the claim will be considered and determined based on the available information. If an entitlement is granted any payment is to be made to the claimant's estate.

Glossary

accepted late-onset condition [section 7]

In relation to Part 4 (Scheme 2),—

- (a) means a condition specified in regulations made under section 265 as accepted as being linked to specific exposure or specific events occurring during qualifying operational service; and
- (b) without limiting paragraph (a), includes conditions specified in regulations referred to in that paragraph, being-
 - (i) a malignancy or other physical disorder that is capable of being caused by exposure during qualifying operational service that occurs 10 or more years before the onset of illness; or
 - (ii) a mental disorder that is capable of being caused by an event that occurs 10 or more years before the onset of illness; and
 - (iii) a mental disorder that is capable of being caused by an event that occurs less than 10 years before the onset of the illness and that is capable of causing the person suffering from it to be unable to seek medical help for the disorder during that period.

child [section 7]

In relation to a veteran,—

- (a) means a natural child of the veteran; and
- (b) includes—
 - (i) an adopted child of the veteran; and
 - (ii) a child of whom the veteran is or has been a guardian; and
 - (iii) a grandchild or a whāngai of the veteran in relation to whom the veteran acts or has acted as a parent or a guardian; and
- (c) includes any other child who would ordinarily be regarded as a child of the veteran because the veteran—
 - (i) is or has been the spouse or partner of one of the child's parents; and
 - (ii) acts or has acted as a parent of the child.

End of Life Choice Act 2019 [sections 5 and 6]

5. Meaning of person who is eligible for assisted dying or eligible person

- (1) In this Act, **person who is eligible for assisted dying** or **eligible person** means a person who—
 - (a) is 18 years or over; and
 - (b) is—
 - (i) a person who has New Zealand citizenship as provided in the Citizenship Act 1977; or
 - (ii) a permanent resident as defined in section 4 of the Immigration Act 2009; and
 - (c) suffers from a terminal illness that is likely to end the person's life within 6 months; and
 - (d) is in an advanced state of irreversible decline in physical capability; and
 - (e) experiences unbearable suffering that cannot be relieved in a manner that the person considers tolerable; and
 - (f) is competent to make an informed decision about assisted dying.
- (2) A person is not a person who is eligible for assisted dying or an eligible person by reason only that the person—

- (a) is suffering from any form of mental disorder or mental illness; or
- (b) has a disability of any kind; or
- (c) is of advanced age.

6. Meaning of competent to make an informed decision about assisted dying

In this Act, a person is **competent to make an informed decision about assisted dying** if the person is able to—

- (a) understand information about the nature of assisted dying that is relevant to the decision; and
- (b) retain that information as part of the process of making the decision; and
- (c) use or weigh that information as part of the process of making the decision; and
- (d) communicate the decision in some way.

guardian [section 7]

Has the same meaning as in section 15 of the Care of Children Act 2004.

impairment [section 7]

Means a loss or abnormality of psychological, physiological, or anatomical function or structure.

member of the armed forces [section 7]

Means a person who is or has been a member of the New Zealand armed force raised by the Governor-General on behalf of the Sovereign,—

- (a) whether in New Zealand or elsewhere; and
- (b) whether before or after the passing of this Act.

partner [section 7]

Means a civil union partner or a de facto partner.

qualifying operational service [section 8]

Means—

- (a) service in any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; or
- (b) service on any deployment declared to be operational service under section 9.

qualifying routine service [section 8]

Means service in the armed forces before 1 April 1974 that is not qualifying operational service.

qualifying service [section 8]

Means—

- (a) qualifying operational service; or
- (b) qualifying routine service.

service-related [section 7]

In relation to an injury, an illness, a condition, or a whole-person impairment, means an injury, an illness, or a whole-person impairment caused by, contributed to by, or aggravated by qualifying service.

service-related death [section 7]

In relation to Part 4 (Scheme Two) means–

- (i) the death of a person who, at the time of the person's death, was taking part in qualifying operational service;
- (ii) the death of a person within 10 years after the person took part in qualifying operational service from a service-related illness or injury;
- (iii) the death of a person more than 10 years after the person took part in qualifying operational service from an accepted late-onset condition.

veteran [section 7]

Means–

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; or
- (b) a person–
 - (i) who has been–
 - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
 - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
 - (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
 - (i) section 19 (but only if the person was a member of the forces);
 - (ii) section 55 or 56;
 - (iii) Parts 4 and 5.

whāngai [section 7]

Means a child adopted by the veteran in accordance with Māori custom.