



DEPARTMENT OF THE ARMY
U.S. ARMY PHYSICAL DISABILITY AGENCY
BUILDING 7 WRAMC
WASHINGTON DC 20307-5001

REPLY TO
ATTENTION OF

TAPD-OEA

6 December 1999

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Policy/Guidance Memorandum # 14: Imminent Death Processing Procedures

1. Purpose: To establish the procedures for imminent death processing pending the publication of the revision of AR 635-40.

2. Reference: DoD Instruction 1332.38, Part I, paragraph F.4.

3. Policy:

a. Pending publication of the revision of AR 635-40, the attached procedures will be followed to process imminent death cases. A copy of this memorandum should be provided to Physical Evaluation Board Liaison Officers.

b. Notification numbers for purposes of submitting the Medical Evaluation Board, medical narrative summary, and any addenda to HQ, DA Casualty Operations Center at PERSCOM are listed below. (Refer to paragraph 3f(6) of attachment.)

(1) FAX: DSN 221-0134/Com (703) 325-0134

(2) VOICE: DSN 221-7990/Com (703) 325-7990

(3) POC: Mr. Bob Wagner, DSN 221-8629

4. Point of contact: Ms. Dennis, Policy Officer, DSN 662-3064 and commercial (202) 782-3064.

FOR THE COMMANDER:

WILLIE MCMILLIAN
COL, IN
Deputy Commander

TAPD-OEA

SUBJECT: Policy/Guidance Memorandum # 14 : Imminent Death Processing

CF:

PDA Staff

PEB Attorneys

DASG-HA, ATTN: COL Smith

DASG-HS-AS, ATTN: Tina Wortzel

ACRB, ATTN: APDAB (COL Allen/COL Sutton)

Expeditious Processing of Imminent Death Cases

1. Purpose.

Death while in a retired status may result in greater benefits to a soldier's eligible survivors than when death occurs on active duty. This attachment provides the policies and procedures to be followed by the MTF and PDA to expeditiously adjudicate the cases of soldiers pending imminent death.

2. Policies.

a. The policies and procedures herein pertain to all soldiers who meet the requirements under 10 USC Chapter 61 for military disability retirement. (Expeditious processing procedures are not applicable to members on the TDRL, since they are already in a retired status. The date of a TDRL reexamination may be advanced due to a member's deteriorating condition.)

b. Soldiers who are single without dependents are eligible for expeditious processing. Single soldiers have an SBP option of "natural person with an insurable interest." Based on this election, an annuity can be provided to any relative more closely related to the soldier than a cousin (does not have to be financially dependant on the soldier) or to a close business associate with proof of being financially affected by the soldier's death.

c. Expeditious processing is not warranted based solely on the diagnosis of a terminal illness or the risks associated with surgery. Expeditious processing is warranted only when the attending physician makes the prognosis that a soldier's death is expected within 72 hours.

d. The circumvention or omission of statutory or regulatory requirements for disability retirement in the interest of timely processing is prohibited.

(1) In no case shall a soldier be retired after death. Determination of death will be made under the laws of the state where the soldier is assigned or under military medical standards when the soldier is outside the United States.

(2) If a LOD determination is required it must be completed before the soldier is placed on the TDRL. However, the PEB may begin adjudicating the case pending receipt of the completed line of duty determination. The findings of the PEB will not be forwarded to the MTF for soldier's or next-of-kin's election until the line of duty, to include a formal investigation, is completed when one is required under AR 600-8-4.

e. Before disability retirement is accomplished, and except as provided in paragraph 2f below, the soldier, or the next-of-kin, as applicable, must:

(1) Receive counseling comparing the financial benefits between death on active duty and death in retired status;

(2) Concur with the MEB and PEB; and,

(3) Concur with expeditious processing of the case.

f. In accordance with AR 37-37-104-1 para 9-21, the MTF commander may make the election to PEB findings and recommendations on behalf of the soldier when the next-of-kin cannot be located. This provision does not include making elections under the Survivor Benefit Program (SBP). Only the soldier or a court-appointed guardian can make SBP elections.

g. In all cases where the soldier is eligible for disability retirement, the initial disposition will be placement on the TDRL with TDRL reexamination within 12 months. The purpose of this is to protect the interests of the government and the soldier should the soldier fully recover or greatly improve.

h. The attached checklist will be used by the PEB and PDA to document processing requirements.

i. For purposes of assisting the Department of Veterans Affairs (DVA) in making certain payments to beneficiaries, the PEB will telefax to PERSCOM (TAPC-PED-S), the MEB with NARSUM and any medical addenda. These documents will be used by the DVA in their determination of service connection. This is a separate and distinct determination from the Army's line of duty determination.

3. Required Actions by Designee.

a. *Attending Physician.*

- (1) Confirm that death of soldier is expected within 72 hours.
- (2) Alert PEBLO that soldier is to be processed as an imminent death case.
- (3) Complete and sign SF 502, Narrative Summary (NARSUM). NARSUM must include the statement that death is expected within 72 hours.

b. *Deputy Commander Clinical Services (or designated representative).* Ensure that DA Form 3947, Medical Evaluation Board Proceedings (MEB), is completed and approved.

c. *PEBLO (prior to forwarding case to PEB).*

- (1) Pending collection of required data, alert PEB according to notification procedures provided by the PEB.
- (2) Confirm status of any required line of duty determination.
- (3) Provide the PEB, by the fastest means available, with the data to complete DA Form 199, blocks 1-6, and the name, address, and telephone number of the next-of-kin if the soldier is comatose or mentally incompetent.

(4) Ensure the soldier or next-of-kin, when authorized, is counseled concerning the financial benefits between death on active duty and death in retired status. Contact the Installation Retirement Services Officer (RSO) to arrange counseling on SBP. Consideration must be given to whether the soldier is in a civilian hospital. Retirement may result in an undue financial burden on the next-of-kin to pay the percentage of medical costs not covered by CHAMPUS/TRICARE. Other considerations include the loss of accrued leave and civilian insurance benefits if the policy pays only if death is incurred on active duty.

(5) Obtain soldier's or NOK's signature on the MEB. If the soldier or next-of-kin cannot be located or refuses to sign the documents at this time, continue to process the case IAW AR 40-3, para 7-9(i)(1) and (2). Normally, expeditious processing continues until the soldier or next-of-kin nonconcur with the PEB findings and recommendations. However, if the soldier or next-of-kin signs a statement declining expeditious processing, notify the PEB of this fact and that the case will be processed under regular procedures.

d. PEB Member (adjudication of case).

(1) Complete blocks 1 thru 6 and 8b thru g of DA Form 199.

(2) Confirm status of line of duty determination. Pending receipt of the determination, continue to process the case up to the point of forwarding the PEB findings and recommendations to the PEBLO for signature. If an unfavorable determination is received, cease expeditious processing.

(3) Complete Blocks 1-21 of the attached checklist.

(4) Contact the PEB medical officer and remaining PEB member to adjudicate the case.

The PEB must insure that issues of pre-existing conditions and service aggravation are considered, when applicable. (Refer to AR 635-40, paragraph B-10.)

(5) Complete blocks 7, 8a, 9, 10, and 12 of DA Form 199.

(6) When a favorable line of duty determination is received forward the PEB findings and recommendations to the PEBLO by the fastest means available.

e. PEBLO (upon receipt of PEB findings and recommendations).

(1) Obtain the soldier's or next-of-kin's election in block 13 of DA Form 199 and (if not previously obtained) signature in block 25 of DA Form 3947, and signature on a memorandum requesting expeditious processing.

(2) If the next-of-kin cannot be counseled in person, but can be reached by telephone, counsel the next-of-kin over the telephone and prepare a memorandum of record of the next-of-kin's election to the MEB and PEB findings and concurrence with expeditious processing.

(3) If the soldier or next-of-kin nonconcurs with the MEB, PEB, or expeditious processing, cease expeditious processing and process the case in accordance with the standard procedures for the election made

(4) If the soldier is deemed incompetent and the next-of-kin cannot be located, request the MTF commander make an election to the PEB findings on behalf of the soldier in accordance with AR 37-104-1, paragraph 9-21. (This provision is limited to the findings of the PEB. Only the soldier, court-appointed guardian, or the Secretary of the Army can make an SBP election.) Document the steps taken to contact the next-of-kin and include in the packet forwarded to the PEB.

(5) Complete block 14 of DA Form 199 if soldier or next-of-kin makes an election.

(6) Forward to the PEB by the fastest means available the following documents:
DA Form 199, DA Form 3947 with NARSUM, DA Form 2173 and DD 261, when applicable.

f. *PEB member (upon receipt of soldier's election and related documents).*

(1) Upon notification of soldier's or next-of-kin's concurrence with PEB findings, complete the information in the checklist and select the date and time of placement on the TDRL.

(2) Medical Corps officers and General Officers who were scheduled for age or length of service retirements, must be processed IAW paragraph 4 below.

(3) Annotate the date and time of placement on the TDRL on the bottom of the DA Form 199.

(4) Complete blocks 22 - 25 of the attached checklist.

(5) Pass all information and documents to the PEB Administrative Technician for processing as soon as possible, unless case is that of a physician or general officer.

(6) Telefax a copy of the MEB with NARSUM and any addenda to the HQDA Casualty Operations Center at PERSCOM. These documents should be identified as Imminent Death Medical Records.

(7) Copies of the completed checklist will be immediately faxed to the PDA, ATTN: OEA.

4. Medical Corps and General Officers. The PEB will process cases of Medical Corps and General Officers the same as other imminent death cases with the additional requirement to notify the Deputy Commander, USAPDA of the action.

Expeditious Processing Form

Time: _____ EST

Date: _____

1. Name: _____

2. Grade: _____

3. SSN: _____ 4. DOB: (DD/MM/YY) _____ 5. PMOS: _____

6. PEBD: _____ 7. BASD: _____ 8. Component: _____

9. Next of Kin (NOK) and address: _____

10. Unit: _____

11. MTF (MEB): _____

12. Has the PEBLO verified the soldier is alive according to the laws of the state: _____

13. Attending Physician (MEB): _____

14. Combat related: YES/NO

15. PEB Members Notified: YES/NO

PEB President: _____ PMO: _____ DR: _____

16. DA Form 3947 (MEB) Received: YES/NO
If Unsigned, PEBLO Statement From NOK or MTF Commander: YES/NO

17. Soldier NOK Counseled about advantages of Expeditious procedures and
Financial Advantages/Disadvantages. YES/NO

18. Soldier is in a Civilian Hospital YES/NO
If Yes, Has NOK Been Counseled on Costs Not Covered By Champus YES/NO

19. LOD: YES/NO/NA IF No, Stop Process

20. If Physician or General Officer, Notify USAPDA: YES/NO/NA

21. Board Findings/Recommendations Complete:
YES/NO

22. PEBLO Notified of Findings and Recommendations: YES/NO

23. Soldier/NOK Election on DA Form 199 Complete: YES/NO

24. Retirement Date/Time: _____ Placed on TDRL: _____
(DD/MM/YY)

25. PEBLO Notified of Retirement Date/Time: YES/NO