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**Chapter 8 – Death Case Decisions – NSLI**

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**8.01 ADJUDICATION PROCEDURE**

1. When the claim for waiver of premiums is filed during the lifetime of the insured, but the insured dies before a determination is made on the claim, the payment of the insurance proceeds take precedence. The Death Claims Section, after processing the case, will refer the case to the Live Claims Section for determination of waiver.

1. If a disability waiver determination is necessary to place the insurance in force at death (e.g. lapsed insurance premature claim), the Death Claims Division will refer the case to the Live Claims Section.

**8.02 PRELIMINARY PROCESSING**

1. When the claim is filed during the lifetime of the insured, the Veterans Claims Examiner (VCE) will use the computer-based 1565 in the VA Insurance system to document the waiver decision.
2. If the claim is filed after the death of the insured and the account was active on the date of death, then a refund of premiums will be issued to the insured’s estate based on the identified total disability date of the insured.

1. When the claim is filed after the death of the insured and the account is lapsed, the policy will be reviewed to see if waiver can be granted to a date that that would have prevented the lapse from occurring. If due to waiver eligibility, the policy can be made active, then the death award will be paid to the insured’s beneficiary (ies).
2. The VCE should verify that the claim has been made by the beneficiary; or the estate of the beneficiary.  If claim is made by the estate as the beneficiary, the claim must be submitted by the administrator of the estate or the next of kin.
3. The VCE in the Live Claims Section will review the claim to determine the need for initial development of evidence and if the submitted evidence is sufficient to make a decision. The case is either processed to completion or referred to Senior Claims Examiner or Supervisor, depending on the complexity of the case.

**8.03 DEVELOPMENT**

1. Instructions for developing a claim are included in chapters 2 and 3.
2. A 45-day diary for control of a pending claim will be set in in the VA Insurance system. The notation "XC Case" will be made in the notes section of the system under the Veteran’s file number and red flagged.

**8.04 PROOF OF TOTAL DISABILITY**

When a claim for waiver of premiums is filed after the death of the insured, evidence establishing total disability for six consecutive months prior to the age of 65 must be of record in VA within one year of the insured's death.

1. If evidence is not received within one year from the date of death of the insured, the claim will be disallowed.
2. When the claimant is requested to furnish additional evidence, he/she will be advised of the time remaining in the one-year limitation period for the submission of such evidence.
3. When evidence is submitted timely but is incomplete as to medical or employment history, this evidence may be sought and obtained even though the one-year period has expired. The question of what medical and employment evidence is required must be determined on an individual case basis.
4. When the evidence of total disability is at least in equipoise (50% in favor of the Veteran, 50% against the Veteran), the claim shall be determined in favor of the Veteran.

**8.05 MATURITY OF INSURANCE UNDER 38 U.S.C. 1913**

1. When premiums cannot be waived under section 1912, solely because the insured died before total disability continued for six months, and satisfactory proof of such fact is received within one year of the insured’s death, the insurance shall be deemed to be in force on the date of death, and the unpaid premiums shall become a charge against the proceeds of his/her insurance. (See 38 U.S.C. 1913.)
2. When a decision is rendered by the VCE in the Live Claims Division based on such facts, the computer-based 1565 will be completed in the VA Insurance system.
3. After the decision is made, the case will be referred to the Death Claims Division for payment of the proceeds.

**8.06 PREPARATION OF COMPUTER-BASED 1565 (WAIVER DETERMINATION)**

In preparing the 1565 in a death case, the instructions listed in chapter 4, paragraph 4.04a, will be followed with the exceptions listed below:

**Item Entry Required**

Claim No. Enter a X before the c and number or XSS (Social
 Security) and number.

Diary Control Leave blank.
Method of Premium Payment Leave blank.

**Total or Total Permanent Disability Found**

From Insert the established total disability date.
To Insert the date of death.
Follow-Up Date Leave blank.
Severity Code Leave blank.
Review Date Leave blank.
Disability Classification Code Enter VA disability rating code that waiver is being

 granted on.

Action Code Enter 4.

Principal Occupation(s) Complete with employment information found.

Educational Background Complete with information found.

**8.07 NOTIFICATION OF ACTION TAKEN**

1. When the insured dies before completion of action on his or her claim or when the claim is submitted by an eligible claimant, and such claim is denied or partially denied, a letter will be sent to the beneficiary, or the beneficiary’s guardian or fiduciary if the beneficiary is a minor or incompetent.
2. If a claim for waiver under section 1912 or 1913 has not been filed, but entitlement under section 1913 is found by VA Insurance, no waiver will be issued, and no letter will be released by ICD. A timely claim must be filed with the VA Insurance Center for waiver of premiums under 1912 or 1913 for a benefit to be issued.