605.5 General

There are two types of lump-sum death payments (LSDP): a regular LSDP and a deferred LSDP. Both types of lump-sum death payments are based on the combined wage and compensation record of an insured employee. In addition, payment of an LSDP, either regular or deferred, does not affect the future entitlement of survivors to insurance annuities.

605.5.1 Regular LSDP

A regular LSDP is payable when the employee is not survived by a widow(er), surviving divorced spouse, child or parent who could qualify for an insurance annuity for the month in which the employee died. A person qualifies for an insurance annuity if (s)he meets the requirements for eligibility, even though (s)he fails to apply for or cannot receive monthly benefits because of deductions (see FOM1 605.20.2 No Current Annuity Eligibility).

If a widow(er) dies after the employee but in the same month as the employee, the LSDP may be paid if the employee acquired his 120 months of creditable service before 1-1-75 (widow(er) not entitled in the month of death).

NOTE: If the lump-sum was paid before 8-12-83 and the employee acquired his 120th month of railroad service before 1975, the LSDP was payable if a surviving divorced spouse was the only survivor entitled to an annuity in the month of death.

605.5.2 Deferred LSDP

A deferred LSDP is payable 1 year after the insured employee's death to the widow(er) when:

- The widow(er) was:
    - “living with” the employee at the time of his/her death if the employee has at least 120 months of creditable RR service before 1975, or
    - “living in the same household” as the employee at the time of his/her death if (s)he acquired the months of creditable RR service after 1974; and
- Someone qualified for monthly benefits in the month of the employee's death; and
- The total monthly insurance annuities paid to survivors in the first year after death are less than the amount of the regular LSDP that would have been payable if no one qualified for an annuity in the month of the employee's death.

Payment of a deferred LSDP should also be considered when potential entitlement to a monthly annuity exists but cannot be proven. For example, a living-with widow applies for a regular LSDP and indicates a surviving divorced spouse exists, but details

concerning that marriage, the surviving divorced spouse's DOB, etc. are unknown. Because of the surviving divorced spouse's potential entitlement, the living-with widow should be denied and advised that a deferred LSDP may be payable 18 months from the date of the employee's death. A call-up for 18 months should be set by Survivor Benefits to take into consideration the possibility of a 6 month retroactive period.

Detailed information about deferred lump-sum death payments is found in FOM1 605.80

605.10 Amount Of Regular LSDP

The amount of the LSDP depends on when the employee acquires 120 months of RR service and who is eligible to receive payment.

605.10.1 Amount of LSDP If the Employee Acquired 120th Month of Creditable RR Service Before January 1975

The maximum LSDP is 10 times the basic amount. However, in computing the basic amount for an employee who dies after 1974, the 1974 Railroad Retirement Act (RRA) deems the employee to have died on 1-1-75 and any RR and SS earnings after 1974 are disregarded.

The minimum LSDP for an employee with any earnings after 1936 is $181.40. The maximum amount of an LSDP is about $1,400.00 for an employee with maximum earnings through 12-31-74.

NOTE: If the deceased employee did not have any RR compensation or SS earnings after 1936, was not awarded an annuity before 1948 based on at least 10 years of RR service and was not a pensioner, the basic amount would have been zero and the LSDP would have equalled zero.

605.10.2 Amount of LSDP If the Employee Acquires 120th Month of Creditable RR Service After December 1974

The maximum LSDP is equal to the <u>lesser</u> of:

- Three times the PIA; or
- $255 ($255 will always be less).

NOTE: Payment of the $255 LSDP may be affected by SSA nonpayment provisions. Under the 1988 SS Amendments, the LSDP is not payable if the employee has been deported 11-10-89 or later due to association during World War II with the Nazi government of Germany. If there is a question about the possibility of this or another nonpayment provision applying in a specific case, forward the inquiry to Policy and Systems.

605.10.3 Employee Has at Least 60 Months of Creditable RR Service After 1995 and a Current Connection

The maximum LSDP is the lesser of:

- Three times the PIA; or
- $255.00 ($255 will always be less).

If the employee was not insured under the Social Security Act, the amount of the LSDP will be zero since there is no SS PIA. The LSDP application is denied in this case.

NOTE: Payment of the $255 LSDP may be affected by SSA nonpayment provisions. See note in FOM1 605.10.2, above.

605.10.4 Amount of LSDP Payable

The amount of the LSDP actually payable depends, in part, on who receives it.

A. An eligible widow(er) receives the maximum LSDP.

B. A funeral home can receive only the lesser of:

- The amount of the unpaid burial expenses; or
- The maximum LSDP.

C. Equitably entitled persons can receive only the lesser of:

- Full reimbursement for the burial expenses they paid; or
- The remaining maximum LSDP (less any LSDP amount paid to the funeral home).

605.15 Priority Of Payment Of Regular LSDP

605.15.1 Priority of Payment If the Employee Acquired 120th Month of Creditable RR Service Before January 1975

When no one is eligible for an annuity in the month of the employee's death, the LSDP is payable only to the following persons, listed in priority order:

A. Eligible widow(er) - When the employee is survived by an eligible widow(er), (s)he is entitled to the LSDP.

B. Funeral home - When the employee is not survived by an eligible widow(er), the LSDP is used to reimburse any unpaid expenses at the funeral home.

C. Equitably entitled person - When the employee is not survived by an eligible widow(er) and there are no unpaid funeral home expenses, or the unpaid funeral home expenses are less than the maximum LSDP, the payer(s) of other burial expenses (equitably entitled persons) can be reimbursed.

605.15.2 Employee Acquired 120th Month of Creditable RR Service After 1974

If the employee's date of death is September 1, 1981 or later, the LSDP is payable only to a widow(er) who meets the "living in the same household" requirement, providing no one, including the widow(er), is eligible for an annuity in the month of the employee's death.

NOTE: If the employee's date of death was before September 1, 1981, the LSDP was still payable in the same priority as described above in FOM1 605.15.1.

605.20 Eligibility And Entitlement Requirements For Regular LSDP

An applicant is eligible for the LSDP if all the following requirements are met.

605.20.1 Insured Status

The employee must be insured under the Railroad Retirement Act at death.

A. For deaths before 1975, the employee is insured if he had 120 months of creditable RR service, a current connection with the RR industry at death and sufficient quarters of coverage to be insured under the Social Security Act.

B. For deaths after 1974, the employee is insured if he had 120 months of creditable RR service, or at least 60 months of railroad service after 1995, and a current connection with the RR industry.

605.20.2 No Current Annuity Eligibility

The LSDP is payable on the combined wage and compensation record of an insured employee in the following situations:

- There is no surviving widow(er), remarried widow(er), surviving divorced spouse, child or parent eligible for an insurance annuity in the month of the employee's death. A person is considered eligible for an insurance annuity if (s)he meets the requirements for eligibility, even though (s)he fails to apply for or cannot receive monthly benefits at this time because of deductions.

  NOTE: If a widow dies after the employee but in the same month as the employee, the LSDP may be paid if the employee acquired his 120 months of creditable service before 1-1-75 (widow(er) not entitled in the month of death).

- A widow(er) becomes disabled in the month of the employee's death or in the five preceding months and his/her beginning date is after the month of the employee's death because of the waiting period.

- There is a surviving divorced spouse or remarried widow(er) entitled to any social security benefit or combination of social security benefits that reduces the annuity rate to zero, and there is not a possibility of an ARF adjustment that will increase the annuity rate to above zero. (S)he cannot be eligible for a surviving divorced spouse or remarried widow(er) annuity in this case.

The LSDP is not payable in the following situations:

- There is a surviving divorced spouse or remarried widow(er) entitled to any social security benefit or combination of social security benefits that reduces the annuity rate to zero, and there is a possibility of an ARF adjustment that will increase the annuity rate to above zero.

- There is a surviving divorced spouse or remarried widow entitled to an annuity computed to a rate of zero due to an employee annuity or public service pension reduction, regardless if there is or is not the possibility of an ARF adjustment.

- An annuitant would have been entitled in the month of death, but the retroactivity rules prevent the annuity from being payable in that month.

If eligibility exists in the month of death but no annuity is payable, or the annuity that will be payable in the first year after the employee's death is less than the amount of the lump-sum death benefit, a deferred LSDP may be considered.

NOTE: Before 8-12-83, an LSDP could be paid if the employee acquired his 120th month of railroad service before 1975 and a surviving divorced spouse was the only person eligible for monthly benefits in the month of death.

605.20.3 Application

An application must be filed no later than the second anniversary of the employee's death. Refer to FOM1 605.25 for additional information regarding the filing of an application.

Exceptions:

1. The person entitled to the LSDP is in military service for some months after the employee's death. In this instance, the months that the entitled person is in military service may be excluded in determining the 2-year period.

2. A medical school, dental school or anatomical board files for the LSDP. A medical school, dental school or anatomical board may file up to 1 year after the disposition of the remains even if the 2-year limit has expired.

605.20.4 Eligible Persons

The following persons may be eligible for the LSDP:

A. Widow(er) - The applicant must be the employee's legal widow(er) who will not have died before receiving the LSDP. The widow(er) need not meet any duration of marriage requirement. However, (s)he must meet one of the following requirements:

1. If the employee acquired his 120th month of railroad service before 1975, the widow must meet the "living with" requirement at the time of the employee's death.

   The “living with” requirement is met if, at the time of the employee's death:

   - The employee and spouse were members of the same household; or
   - The spouse was receiving regular contributions from the employee; or
   - The employee was under court order to contribute to the spouse's support.

2. If the employee acquired his 120th month of railroad service after 1974, or 60-119 months after 1995, the widow(er) must meet the “living in the same household” requirement at the time of the employee’s death.

   The “living in the same household” requirement is met if, at the time of the employee's death:

   - The employee and spouse were living together as husband and wife in the same abode (in the absence of evidence to the contrary, assume they were living in the same household if they were living at the same address); or
   - The employee and spouse had shared, and again planned to share, the same abode, even though they lived apart temporarily because of circumstances beyond their control (such as financial difficulties, ill health, working away from home, military service, etc.); or they lived apart temporarily because one spouse is in a curative, custodial or penal institution. While temporarily living apart will not defeat living in the same household, the facts must establish that there was an intent to resume living together and that the living apart was temporary in nature.

     If the employee and spouse were separated solely for medical reasons, consider them to be living in the same household, even if the separation was likely to be permanent and there was little or no expectation of them living together again. As long as one spouse

continued to demonstrate strong personal and/or financial concern for the other, assume they would have lived together (absent evidence to the contrary) had the medical reasons not necessitated their separation.

For additional information regarding establishment of “living with” or "living in the same household" refer to FOM1 935.5.

B. Funeral home - If no eligible widow(er) survives the employee, or if the widow(er) dies before receiving the LSDP (or negotiating the LSDP check, if paid by check), a funeral home may be paid the LSDP to the extent of unpaid burial expenses of the employee incurred by or through the funeral home when:

1. A timely application is filed by a person who assumes responsibility for payment of all or any part of the funeral home expenses and authorizes payment of the LSDP to the funeral home; or

2. An application is filed by the funeral home at the expiration of the 90-day period following the death of the employee if, during that 90-day period, no person assumed responsibility for payment of all or any part of the funeral home expenses. If part of the LSDP remains, it may then be payable to the equitably entitled person(s), if any.

C. Equitably entitled person(s) - If no eligible widow(er) survives the employee, or if the widow(er) dies before receiving the LSDP (or negotiating the LSDP check, if paid by check) and there are no unpaid B/E incurred by or through a funeral home, the applicant must be the person equitably entitled to reimbursement for having paid the B/E of the employee.

The term "person equitably entitled" may also include:

- A home for the aged or sick, including one that is affiliated with a fraternal organization when it is entitled to a tax exemption under section 501(c) of the Internal Revenue Code (IRC) of 1954, and pays the B/E or furnishes goods and services in connection with the burial of the employee, even though there was an express (or implied) contractual obligation to pay the B/E of the employee;

- A fraternal organization exempt from the payment of taxes under section 501(c)(8) of the IRC of 1954 may also be the person equitably entitled to reimbursement for having paid the B/E of the employee except to the extent the payment of B/E was (1) made pursuant to a plan or system providing for the payment of a fixed sum upon death of a member (or one of the member's family) or (2) because of an express contract with the member.

Refer to FOM1 Art 6 Appendix B for a list of some tax exempt organizations.

605.25 Application Requirements For Regular LSDP

An eligible person must file an application in order to receive payment of any part of the LSDP.

605.25.1 Acceptable Forms

The usual application form used to apply for a regular LSDP is the Application Form AA-21. The Social Security Administration's Application Form SSA-8-F4 is also acceptable if the record contains all the information necessary for processing the claim under the RRA.

If a funeral home is applying, Form G-273a and a copy of the death certificate is required in addition to the Application Form AA-21.

When an eligible widow(er) will be entitled to an insurance annuity within 3 months, the annuity application can be used to award the LSDP and the monthly annuity. An Application Form AA-21 is not required in this situation.

605.25.2 2-Year Time Limit

An application must be filed on or before the second anniversary of the employee's death unless one of the exceptions listed in FOM1 605.20.3 exists.

605.25.3 Purpose of Form RL-94F

Form RL-94F is used only to secure information about the deceased employee's survivors and to determine who may qualify for the LSDP. A Form RL-94F cannot serve as an application, nor does it protect the filing date of an application filed after the expiration of the 2-year period.

605.30 Evidence And Development Requirements For Regular LSDP

605.30.1 Evidence and Forms

Evidence	When Required
Application	Always. An Application AA-21, SSA's SSA-8-F-4, or any other survivor application form is acceptable. Form G-273a is used as a supplement to Application AA-21 when FH applies directly.
Proof of employee's death	Always. When a funeral home applies, Form G-273a is insufficient as POD.

Assignment of interest (g-131)	When there are multiple potential applicants and one or more desires to assign his share to an eligible applicant and the share does not exceed $500.
Proof of marriage and living with or living in the same household	If the applicant is the widow(er), the statement on the application is sufficient proof of living with unless there is conflicting evidence. If there is a question refer to FOM1 605.35.1.
Proof of payment of B/E	When the applicant has paid any burial expenses. For some burial expenses, listing the paid B/E on the signed application or on a signed statement is acceptable (see FOM1 605.65.4 for details).
Guardianship of applicant (AA-5)	If guardian or other legal representative is selected as representative payee for the applicant.
Proof of appointment of legal representative of an estate	Only when the estate is equitably entitled and payment is to be made to the legal representative on behalf of the estate.
Proof of M/S	When the employee's M/S after 1936 is creditable under the RRA or SSA.
Parent's statement of non-dependency	When the parent is over age 60, has not married since employee’s death and dependency is "unknown".
Summary/certification (G-626)	Always. If paper documentation also needs to be forwarded to headquarters for SBD to adjudicate a case, attach it to the G-626.
Lag Wages and SEI	When claimed by employee or applicant

605.30.2 Assignment of Interest

An eligible person may submit Form G-131 instead of an application if he desires to assign his share of the LSDP to an eligible applicant and the share does not exceed $500. Furnish Form G-131 to an eligible person only when he expresses a desire to assign his share of the benefit. The person must be informed of the approximate amount of his share before he completes the form. Like an LSDP application, Form G-131 must be filed no later than the second anniversary of the employee's death.

605.30.3 Parent's Non-Dependency Statement

A statement of non-dependency is required from a parent when:

- the Application AA-21 shows that the parent's dependency is "unknown"; and
- the parent has not married since the employee's death.

A statement should also be secured if there appears to be a discrepancy. For instance, the parent's address is the same as the deceased employee's, but the applicant says the parent was not dependent.

If the field office is unable to get a statement when one is required, submit a written explanation including an opinion as to the parent's dependency. After your explanation has been received, Survivor Benefits will make a determination whether the LSDP can be paid without the statement of non-dependency.

605.35 Widow(er) Eligible For LSDP By Reason Of Relationship

A widow(er) is eligible for an LSDP if no one is eligible for a survivor annuity for the month in which the employee died, <u>and</u>

- If the employee has at least 120 months of creditable RR service before January 1975 and (s)he meets the "living with" requirement; or
- If the employee acquired his 120th month of creditable RR service after 1974 and(s)he meets the "living in the same household" requirement; or
- If the employee has 60-119 creditable service months, and at least 60 service months were after 1995 and (s)he meet the “living in the same household” requirement.

An LSDP is not payable if a widow(er) could qualify for an annuity in the month of death, but due to delayed filing cannot be paid for the month of death. However, payment of a deferred LSDP may be considered.

605.35.1 Development of Living With and Living in the Same Household

A. <u>General</u> - The fact that the employee died away from the family household is not in itself reason for full development of "living with" or "living in the same household." Many deaths occur away from the family residence. When there is an allegation of "living with" or "living in the same household," but the file indicates that death occurred away from the family residence, an explanation showing that the employee died at a hospital, at work, on a business trip or vacation is usually sufficient. This is not true, of course, when other evidence casts doubt on the allegation. In such case, develop the allegation fully per FOM1 935.5.

B. <u>Whereabouts of widow(er) unknown</u> - If the widow(er) cannot be located through friends, relatives, employers or other sources, questions about "living with" or "living in the same household" and other conditions of entitlement on Form AA-21 must be answered by the applicant. The applicant must also submit statements

regarding whether the widow(er) was living-with the employee from two other persons, preferably friends or relatives of the missing widow(er). If the evidence indicates a reasonable probability that the widow(er) is entitled, any claim by a person who paid B/E will be disallowed.

C. Widow(er) will not submit evidence of living with or living in the same household after applying - If the widow(er) has not responded to all attempts to secure evidence regarding “living with” or “living in the same household”, inform the widow(er) in writing that (s)he is entitled to the LSDP if (s)he was “living with” the employee at the time of death or was “living in the same household”, whichever is applicable. The letter should explain how the widow(er) may establish that (s)he meets the requirement.

If, after a reasonable time (at least 30 days) the widow(er) does not submit sufficient evidence to resolve the issue, release another letter advising the widow(er) that unless proof is submitted within 30 days, a decision on the claim will be made based on the evidence in file.

After 30 days, if no reply is received and no other action has been taken, a decision will be made based on the evidence in file. The widow(er)'s claim will be denied unless (s)he is equitably entitled. If the widow(er) is not equitably entitled, payment will be made to the funeral home and/or the payer(s) of the employee's burial expenses.

605.40 Widow(er) Is Equitably Entitled

If a widow(er) files for the LSDP and the facts do not clearly establish living with or living in the same household, find out whether the widow(er):

- Paid all the employee's burial expenses; or
- Assumed responsibility at the funeral home for paying the employee's burial expenses, will assign LSDP to the funeral home, and unpaid burial expenses exceed the LSDP amount.
- When either of the above conditions apply, it is not necessary to establish living with or living in the same household since future benefits are not affected. However, if someone other than the widow(er) paid any part of the employee's burial expenses and there are no unpaid funeral home expenses, or the balance at the funeral home is less than the LSDP amount, fully develop the question of living with or living in the same household.
- The above rule also applies when development of proof of marriage is prolonged, provided the widow(er) will be entitled to the entire LSDP regardless of the outcome of the development. The rule can be applied when the question pertains to the legality of the marriage and no prior marriage is involved, or the termination of the surviving spouse's prior marriage is involved. Do not apply this rule when the

question concerns a prior marriage of the employee or the residual lump-sum. In such cases, the question must be resolved since the result could bar payment of the LSDP to the claimant.

605.45 Payment Of Regular LSDP To Widow(er) Who May Be Eligible For A DWIA In The Month Of The Employee's Death

The LSDP may be paid to a widow(er) age 50-60 who is disabled but does not wish to file for a disabled widow(er)'s insurance annuity (DWIA). The reasoning behind this policy is that eligibility for a DWIA cannot be presumed unless the widow(er) actually files for a DWIA. This policy applies even if the widow(er) is receiving an SS DIB or a RR disability annuity based on her own employment.

605.45.1 Widow(er) Files for a DWIA and Later Cancels Application

The LSDP can be paid upon cancellation of the DWIA, but any DWIA payments made would have to be refunded before the LSDP can be paid. An Application Form AA-21 is not required to award the LSDP.

605.45.2 Widow(er) Who Receives LSDP Later Files for WIA and Early Medicare and Is Rated Disabled as of the Month of the Employee's Death

As long as the widow(er) is under age 60 in the month of the employee's death and does not file for a DWIA, the LSDP award is correct and will not be affected by subsequent entitlement to any other benefit.

605.45.3 Widow(er) Receives LSDP and Later Files for a DWIA

If a widow(er) receives the LSDP and later files for a DWIA that starts in the 12-month period beginning with the month of death, the LSDP award is considered erroneous if the widow(er) is rated disabled as of the sixth month prior to the month of the employee's death. The LSDP is payable if the DWIA cannot begin in the month of the employee's death solely because the 5-month waiting period has not expired.

NOTE: For DWIA applications that were filed before 9-1-83, the LSDP was considered erroneous if the DWIA began in the 12-month period beginning with the month of death and the widow(er) was rated disabled as of the month of the employee's death.

If the LSDP is considered erroneous, it is recovered from the DWIA award. However, a deferred LSDP can be considered if the DWIA payments made for the year after the employee's death are less than the regular LSDP amount.

An LSDP award is not considered erroneous if a widow(er) becomes disabled in a month after the employee's death, or when the DWIA begins more than a year after the employee's death.

605.50 Payment Of Regular LSDP To Funeral Home

605.50.1 Conditions for Payment

An LSDP is payable to a funeral home (FH) to the extent of unpaid B/E incurred by or through such home when:

A. There is no eligible widow(er); and

B. A timely application is filed by a person who assumes responsibility for payment of all or any part of the FH expenses and authorizes payment of the LSDP to the FH; or

C. An application is filed by a FH at the expiration of the 90 day period following the death of the employee if no one assumed responsibility for payment of all or any part of expenses incurred by the FH during that 90 day period.

After satisfying the unpaid FH expenses, any remaining LSDP is paid to equitably entitled person(s).

605.50.2 Assumption of Responsibility for FH Expenses

The assumption of responsibility for FH expenses generally means that there was a bona fide agreement between a person and FH that the person assumed responsibility for payment of all or part of unpaid FH expenses.

An assumption of responsibility is usually made by the person who makes the funeral home arrangements. A voluntary payment to the FH is also considered an assumption of responsibility.

605.50.3 Authorization of LSDP to FH

A. General - An authorization of payment of the LSDP to a FH is accomplished on the Application AA-21 and Form G-273a as follows:

1. Application AA-21 - By completing the appropriate items on the Application AA-21, the applicant authorizes that the payment of the LSDP to the FH is to be applied to the specified amount of unpaid expenses. The amount specified should correspond to the amount of unpaid expenses shown by the FH on Form G-273a. Any discrepancies must be reconciled, unless it meets the "Exception" as noted in FOM1 605.50.5.

2. Form G-273a - By completing the Form G-273a, the FH not only gives information about the B/E, but also certifies that they will return the LSDP check or refund the excess to RRB if, at the time the check is received, the amount of the check is greater than the unpaid expenses. This form must be completed by the FH whenever payment of the LSDP is being authorized by a person assuming responsibility for unpaid B/E.

B. Eligible widow(er) wishes to authorize payment to FH - An eligible widow(er) who is entitled to the LSDP by right of relationship may authorize payment of all or part of the LSDP to the FH to satisfy all or part of unpaid FH expenses.

The appropriate items on the Application AA-21 referring to authorization must be completed by the widow(er). However, Form G-273a is not required unless the widow(er)'s eligibility based on relationship is questionable, but (s)he assumed responsibility at the FH.

605.50.4 When FH May Apply for LSDP

A. 90-day waiting period - At the end of the 90-day period after the employee's death, the FH may apply for the LSDP if no one has assumed responsibility for payment of any part of the B/E in that period. In addition to the Application Form AA-21, the FH must submit Form G-273a and a separate proof of death.

B. Acceptable POD - Form G-273a is not acceptable as proof of death when a FH files for the LSDP. The funeral home must submit other evidence of death when applying directly for the LSDP.

605.50.5 Proof of FH Expenses

Verify the total burial expenses incurred by or through a FH and the amount still unpaid by comparing the statements on Forms AA-21 and G-273a. Reconcile any discrepancies found to avoid delays and assure proper payments. If the amount of outstanding burial expenses on Forms AA-21 and G-273a are discrepant, a supplemental Form AA-21 and/or another Form G-273a may be requested because the amounts must agree in order for payment to be made.

EXCEPTION: If the Form G-273a shows a balance in excess of $1,400 and the Application Form AA-21 authorizes payment of over $1,400 to the funeral home, a discrepancy will not affect payment since the maximum possible LSDP is about $1,400. A supplemental Application Form AA-21 or new Form G-273a is not required in these cases. Enter the reason for the discrepancy in the remarks section of Form G-626

605.50.6 Amount of LSDP Payable to FH

A. One FH involved - The LSDP is equal to the lesser of:

1. The unpaid amount of B/E incurred by or through that FH; or

2. The maximum LSDP amount.

B. More than one FH involved - Subject to the limitation above, the amount payable to each FH is as follows:

1. If payment has already been made to one FH based on the application of a person who assumed responsibility, the amount of the LSDP remaining is paid to the second FH; or

2. If payment is being made at the same time, the amount designated to each FH by the person who assumed responsibility; or

3. If no one assumed responsibility, the LSDP is paid to each FH to the extent and in proportion to the unpaid B/E each FH incurred.

   EXAMPLE 1:The maximum LSDP is $840 (10 x BA of $84.00) and the total FH expenses are $1,800 incurred by two FHs. The Acme FH incurred expenses of $300 and the Newport FH incurred expenses of $1,500. No one assumed responsibility and after the 90-day period elapsed each FH filed for reimbursement. The proportionate shares are:

   Acme FH 300/1800 x $840 = $140 (LSDP share),

   Newport FH 1500/1800 x $840 = $700 (LSDP share).

   EXAMPLE 2:The maximum LSDP is $752 (10 x BA of $75.20), and payment of $650 has been authorized to the Shady FH. No other B/E are indicated on the Application AA-21 and an LSDP of $650 is paid to the Shady FH. Three months later a claim is received from the Ajax FH for unpaid expenses of $295. The amount now payable is:

   $752 (Maximum LSDP)

   -650 (LSDP prev. pd. To Shady FH)

   $102 (Amount payable to Ajax)

650.50.7 Notifying Person Authorizing Payment to FH

Notify the person who authorized all or part of the LSDP to a funeral home when the award is made, as follows:

A. Entire LSDP Payable to Funeral Home – Send Form Letter RL-24a to the applicant who authorized the payment to the funeral home if (s)he is:

- A representative of government agency, e.g., Department of Public Welfare; or
- The representative of the employee's estate; or
- An applicant who specifically asks to be notified.

B. Part of LSDP Payable to Funeral Home

1. Equitably Entitled Person Authorized Payment to Funeral Home - When an equitably entitled person authorized payment to a funeral home and payment is also being made to that person; include Code Paragraph 537 in the notice of award to the equitably entitled person.

2. Person Not Equitably Entitled Authorized Payment to Funeral Home

   When a person not equitably entitled authorized payment to a funeral home, send Form Letter RL-24a to the applicant who authorized the payment only if he/she is one of the persons listed in "A" above.

Form Letter RL-24a is on RRAILS.

605.50.8 Unpaid Retirement Annuities Not Payable to FH

Unpaid retirement annuities are not payable to a FH, even if the LSDP does not cover all the unpaid funeral home expenses. A FH is not an equitably entitled person, nor is the person authorizing the payment in respect to the amount authorized. However, any other B/E may be reimbursed from accrued retirement annuities.

EXAMPLE: Total LSDP $800.00; Accrued annuity = $100.00; FH expenses = $1,200.00; other B/E = $200.00. Son A authorizes payment of LSDP to FH then pays the remaining $400.00 FH expenses; son B pays the other B/E of $200.00.

$1,400.00 (total B/E) - $800.00 (LSDP) = $600.00 (Unreimbursed B/E).

The accrued annuity is paid as follows:

Son A is paid $66.67 ((400 ÷ 600) x 100 = 66.67)

Son B is paid $33.33 ((200 ÷ 600) x 100 = 33.33)

605.55 Payment Of Regular LSDP To Equitably Entitled Persons

605.55.1 Definition of an Equitably Entitled Person

An equitably entitled person is a person who paid (or whose funds were used to pay) the B/E of a deceased employee because of kinship, friendship, moral obligation, or similar motives.

The word "person" includes an individual, partnership, trust estate, association, corporation, government unit or estate of a deceased individual.

The term "person equitably entitled" includes, but is not limited to, the following:

- Certain tax exempt organizations furnishing goods and services for the deceased's burial; and

- A state or any political subdivision paying the deceased's burial expenses; and
- Certain tax exempt homes for the sick and aged; and
- Certain tax exempt fraternal organizations paying burial expenses of a member, or one of the family of a member, of such an organization; and
- A legal representative of the estate who uses his personal funds to pay burial expenses.

605.55.2 When a Funeral Director Can Be Considered Equitably Entitled

A funeral director can be equitably entitled to the LSDP if (s)he has furnished goods or services for the burial of the following relatives (including relatives by adoption):

- Spouse; or
- Child, stepchild; or
- Grandchild; or
- Parent, stepparent; or
- Grandparent; or
- Brother or sister; or
- Any other relative (by blood, marriage, or adoption) living in the same household with the funeral director at the time of death.

This is an exception to the general rule which prohibits payment to funeral directors as equitably entitled persons.

A funeral director who buries a relative listed above may file immediately as an equitably entitled person or he may wait 90 days after the employee's death and file as an unpaid funeral home.

<u>If the funeral director files as an equitably entitled person</u>, (s)he can be only reimbursed the cost to him or her of goods and services used and only actual out-of-pocket expenditures for services specifically for the funeral. (S)he cannot be reimbursed for his or her own services or those of the members of the funeral home staff unless (s)he separately pays for specific services in connection with the burial.

<u>If the funeral director applies as an unpaid funeral home</u>, (s)he can be reimbursed based on the funeral home's normal charge for the services provided.

605.55.3 When LSDP Can Be Paid to Equitably Entitled Persons

The LSDP can be paid to persons equitably entitled by reason of paying the employee's burial expenses when:

- No eligible widow(er) survives, or the eligible widow(er) dies before receiving the LSDP payment or, if the LSDP was paid by check, negotiating the check; and
- The employee acquired the 120th month of creditable RR service before 1975 (before 9-1-83, also if the employee acquired the 120th month of service after 1975, but died before September 1, 1981); and
- There are no unpaid burial expenses incurred by or through a funeral home, or such expenses are less than the maximum LSDP payable; and
- An application is filed on or before the second anniversary of the employee's death.

A. When there are unpaid FH expenses - The LSDP is first paid to the FH to the extent of unpaid expenses. The remaining LSDP, if any, is paid to the person(s) equitably entitled.

B. Priority of payment - The LSDP, or any part of the LSDP remaining after the unpaid FH expenses are paid, is paid to equitably entitled persons to the extent and in proportion to the amount of the burial expenses each paid, in the following order of priority:

- Funeral home expenses (see NOTE below).
- Grave opening and closing expenses, if not included on the funeral home bill.
- Expense of providing burial plot, if not included on the funeral home bill.
- Any remaining B/E not included on the funeral home bill.

NOTE: In many cases, the funeral home will make most of the burial arrangements, such as arranging for the opening and closing of the grave, and include the cost on their final bill. Any funeral expense on the above priority list included on the final funeral home bill is part of the total funeral home expenses and not considered a separate burial expense.

C. Equitably Entitled Person(s) Paid FH Expenses - If the funeral home expenses exceed the maximum LSDP, and only one person paid those expenses, that person is paid the entire LSDP. If more than one person paid the funeral home expenses, each person who paid part of the FH expenses is reimbursed in proportion to the amount (s)he paid. Persons who paid any other burial expenses cannot be reimbursed.

EXAMPLE: The FH expenses of $4,500 were paid by the employee's two brothers. Frank paid $3,000 and Robert paid $1500. The maximum LSDP in this case is $1,000 (10 x BA of $100.00) The proportionate shares are as shown below:

Frank 3000/4500 x $1000 = $666.67 (LSDP share);

Robert 1500/4500 x $1000 = $333.33 (LSDP share).

D. Equitably Entitled Person(s) Paid Non-Funeral Home B/E - If the FH expenses are less than the maximum LSDP, the person(s) who paid the remaining B/E can be reimbursed up to the lesser of the remaining B/E or remaing LSDP. If the payer of both the FH expenses and remaining B/E is the same person, (s)he is paid the entire LSDP due. If more than one person contributed to the payment of the total B/E and no shares are assigned, the LSDP is paid as follows:

- If all persons contributed to the entire combined B/E, each person is reimbursed in the proportion (s)he contributed.

  EXAMPLE: Total LSDP = $1,000.00; FH expenses = $3,500.00; remaining B/E = $375.00; total combined B/E = $3875.00. The EE's 4 children agree to split the entire cost of burying their father based on what each one can afford.

  1. Child A contributes $1,700.00. She is reimbursed $438.71 ((1700 ÷ 3875) x 1000 = 438.71).

  2. Child B contributes $1,200.00. He is reimbursed $309.68 ((1200 ÷ 3875) x 1000 = 309.68).

  3. Child C contributes $600.00. He is reimbursed $154.84 ((600 ÷ 3875) x 1000 = 154.84).

  4. Child D contributes $375.00. She is reimbursed $96.77 ((375 ÷ 3875) x 1000 = 96.77).

  NOTE: Since each child's share is less than $500.00, any of them can complete Form G-131 to assign his or her share to another PB/E.

- If one person paid the FH expenses and another the remaining B/E, the person who paid the FH expenses is fully reimbursed and the person who paid the remaing B/E is paid the remaining LSDP due.

  EXAMPLE: Total LSDP = $1,000.00; FH expenses = $950.00; remaining B/E = $250.00. EE's daughter paid all of the FH expenses and his son paid the remaining B/E. The LSDP is paid as follows:

  1. EE's daughter is reimbursed the total $950.00 she paid for the FH expenses.

2. EE's son is reimbursed $50.00 of the $250.00 he paid for the remaining B/E.

NOTE: If there were 2 payers of the remaining B/E in this case, each would be reimbursed in proportion to how much of the $250.00 (s)he paid.

- In the event that more than one person paid the B/E and each person paid a separate type of B/E, as listed above in item B, the B/E are reimbursed in priority order.

  EXAMPLE: Total LSDP = $1,000.00; FH bill = $750.00 and includes opening and closing of grave; burial plot = $300.00; remaining B/E = $250.00. EE's 3 children agree that each will pay for one type of B/E.

  1. Child A paid the FH expenses and is reimbursed all of the $750.00 he paid.

  2. Child B paid for the burial plot and is reimbursed $250.00 of the $300.00 he paid.

  3. Child C paid the remaining B/E, but is not reimbursed for any of those B/E.

605.55.4 Payer of B/E Expects Reimbursement From Estate or Other Sources

The following subsections explain how to handle cases in which either the payer of B/E expects to be reimbursed in the future or a legal representative has been appointed but payer of B/E does not expect to be reimbursed.

A. Person Expects Reimbursement From Funds of Estate - If the person who files as payer of B/E is not the legal representative of the employee's estate, but expects to be reimbursed by the representative from estate funds, pay the applicant (if otherwise in order) and release Form Letter RL-59 to the legal representative of the estate.

B. Payer of B/E Does Not Expect Reimbursement From Estate Funds - If the applicant (payer of B/E) is NOT the legal representative of the estate and does NOT expect to be reimbursed by the legal representative, pay the applicant (if otherwise in order) and release Form Letter RL-59 to the legal representative of the estate.

C. Payer of B/E Expects Reimbursement From Other Sources - If reimbursement is expected from a source other than estate funds (e.g., from a relative of the deceased employee), pay the applicant and release Form Letter RL-59 to the person who is expected to reimburse the payer of B/E.

Form Letter RL-59 is on RRRAILS.

605.55.5 Contractual Obligations

A. General - Any person NOT contractually obligated under a plan, system, or general practice to pay B/E, furnish the employee's burial, or supply the funds used to pay B/E IS equitably entitled.

A contractual obligation may exist when a person paid dues, premiums, or other consideration in return for which an employer, insurance company, fraternal organization, burial society, undertaker, home for the aged, etc., agreed to pay money or provide the employee a burial. However, a home for the sick and aged that is tax exempt under Section 501c of the Internal Revenue Code is always considered to be equitably entitled.

B. Determining if a plan or system exists - A plan or system exists when the person has established rules, programs, and procedures regarding:

- Maintenance of a fund from which the benefits are paid; or
- Eligibility requirements; or
- Amount of benefits and method of payment.

C. Determining if an express contract exists - There is an express contract for burial only if the organization, as part of the consideration for initiation or payment of the member's dues or assessments, definitely promises to bury the member. Such promise may be a provision in the constitution or by-laws, or may be incorporated in a contract between the employee and the organization. While the promise to bury need not be in writing, it must be definite. A statement by the organization that it never allows its members to be buried at public expense is not a definite promise to bury.

D. Determining if a general practice exists - A general practice exists when the person has rather consistently paid B/E or benefits in similar cases in the recent past.

605.55.6 Development of Plan, System or General Practice

A. Information required from organization or employer - Assume that a plan, system or general practice exists when the organization so states. When it is necessary to find out whether a plan, system or general practice exists, obtain all the following information from the organization or employer:

1. The conditions under which a member's or employee's B/E is paid;
2. If members or employees contribute to the fund from which payment is made, either directly or through dues, assessments, or attendance at events conducted for the benefit of the fund;

3. If there is a plan, particularly one that the members or employees could reasonably be expected to know about. The plan may be shown by provisions of the constitution of by-laws, posters, fraternal insurance contracts, oral statements, etc.;

4. How often the organization pays the B/E of its members or employees in similar cases;

5. How payment is made, e.g., whether directly to the funeral home, to the named beneficiary, to the next of kin, or to the person who pays the funeral home, and whether there are any rules or customs for making payment;

6. What discretion the organization or employer can exercise in regard to payment, i.e., can the organization or employer decide whether payment will be made, in what amounts, and to whom it is payable.

B Membership test - A member is a person who:

1. Has some voice in the maintenance or operation of the fund or in the affairs of the organization that maintains the plan, system, or general practice; or

2. Contributes something of value, i.e., property, income, dues, assessments, service, etc., to the organization or fund in reliance upon an express or implied promise to pay a death benefit or B/E.

   A person who contributes to the Red Cross, Community Chest, Army or Navy Emergency Relief, etc., does not meet the membership test. When an employee was not a member of the organization and his B/E are paid merely because he was a member of the same faith or belongs to the same profession as members of the organization, the organization may be equitably entitled.

C. Employment test - When the employee had rendered services for an organization, assume that the status of employee existed at the time of death. However, if the organization contends its plan, system or general practice does not cover an employee who was fired or resigned, or was not working because of illness at the time of death, find out whether the organization previously made payments in similar cases.

605.55.7 When Equitably Entitled Person's Estate Is Entitled

If the equitably entitled person dies before receiving the LSDP (or negotiating the check, if the LSDP was paid by check), his right to the LSDP passes to his estate. An equitably entitled person need not have filed an application for reimbursement before his death.

When the equitably entitled person filed a timely application prior to death, a claim on behalf of equitably entitled person's estate may be filed at any time. If an application was not filed by the equitably entitled person before death, the equitably entitled person's estate must file an application within 2 years of the employee's death. Refer to FOM1 620 for information about payment of benefits to an estate.

605.55.8 When Medical School or Anatomical Board Claims to Be Equitably Entitled

A medical school, dental school or anatomical board that claims to be equitably entitled on the basis of expenses directly related to the final disposition of the remains of the deceased employee may file a claim for the LSDP. A claim may be filed up to 1 year after the final disposition of the remains even if the 2-year time limit has expired.

If the school or anatomical board uses and pays for the services of a funeral home for final disposition of the remains, it can be reimbursed as a PB/E in the same way any other equitably entitled PB/E would be reimbursed. Form G-273a is sufficient as proof of payment of B/E.

If the school or anatomical board uses its own resources and not a funeral home for the final disposition of the remains, secure all of the following before submitting the claim to SURVIVOR BENEFITS:

A. Application Form AA-21 - This form should be signed by a representative of the medical school, dental school or anatomical board claiming reimbursement. Rubber stamped signatures are not acceptable.

B. Evidence of burial expenses - Each claim should include an itemized statement of burial expenses indicating what goods and services are included in the total claimed expenses.

   If the total expenses are less than $160, the claimant's itemized statement may be accepted without developing a detailed breakdown of each item, unless it appears that a particular item may not be reimbursable. This total includes transportation, embalming and cremation costs.

   If the total expenses exceed $160, the claimant's itemized statement should include a detailed breakdown of each item. When a detailed breakdown is required, it should include the cost of each item for which reimbursement is claimed. If the breakdown is for the disposition of more than one body, HQ will prorate the expenses to determine the appropriate reimbursement due.

C. Date of the final disposition - Each claim should include the date final disposition of the body was made.

605.55.9 Church Cemetery Organization Claims Reimbursement

A church cemetery organization is equitably entitled if it qualifies in its own right as a nonprofit religious organization under the following conditions:

- It is organized under the jurisdiction or control of a recognized church; and
- It is subject to the supervision of the church; and
- It is maintained mainly for burial of members of the church in accordance with church rites and ceremonies; and
- Its officers and board of directors are restricted to the clergy and lay officers of the church; and
- Its net income goes to the church.

605.55.10 Home for Sick and Aged Claims Reimbursement

A home for the sick and aged is equitably entitled even when a formal contract to bury a resident exists if:

- The home is entitled to a tax exemption under section 501(c) of the IRC of 1954; and
- It pays B/E or furnishes goods and services in connection with the burial of an inmate or guest.

Section 501(c) provides tax exemptions for nonprofit organizations. We will accept the statement of a home that it has a tax exemption under this section if it is operated by a recognized religious denomination.

If the home is not operated by a recognized religious denomination or there is a question whether it has a tax exemption, ask whether the home applied to IRS for a ruling on its tax exemption. If there has been a ruling, request the date of the ruling and the section of the Code under which the exemption was granted.

If no ruling has been made, secure the exact legal name and address of the home and its reasons for believing it has a tax exempt status. Submit the information to Survivor Benefits along with the necessary proof. A determination on their equitable entitlement will be made by Survivor Benefits.

605.55.11 Fraternal Organization Claims Reimbursement

A fraternal organization is equitably entitled if:

- The organization is entitled to a tax exemption under section 501(c)(8) of the IRC of 1954 (see FOM1 Art 6 App B for a partial list of such organizations); and

- It pays B/E or furnishes goods and services in connection with the burial of the member; and

- Such payment was neither made pursuant to a plan or system providing for the payment of a fixed sum upon the death of a member nor because of an express contract with the member.

605.55.12 Determining Tax Exempt Status of Organization

A. General - Section 501(c) of the Internal Revenue Code (IRC) of 1954 provides tax exemptions for nonprofit organizations. Accept the statement of a nonprofit organization that it has a tax exemption under this section. A declaration to that effect by the accredited representative of such organization is sufficient. The following sections explain specific types of tax exemptions.

B. Exemption under section 501(c)(3) - This exemption applies to a religious, charitable, scientific, literary, or educational organization and community chest if it meets all these conditions.

1. It is organized and operated exclusively for one or more of the purposes specified above. That such an organization incidentally engages in other activities to raise money to carry out its primary purpose does not necessarily deprive it of exemption.

2. Its net income does not accrue in whole or in part to the benefit of any private shareholder or person.

3. It does not, by any substantial part of its activities, try to influence legislation by propaganda or otherwise.

4. It does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office.

If the organization is not listed in FOM1 Art 6 App B, or is not a church cemetery organization, or there is doubt about the exemption, but it states that it has a section 501 exemption, fully develop the claim and submit to SURVIVOR BENEFITS for a determination whether the organization has been ruled exempt from income tax under section 501(c) of the IRC.

C. Exemption under section 501(c)(8) - Nationally known and recognized fraternal beneficiary societies and their local lodges, chapters, etc., are exempt from income tax under section 501(c)(8). See FOM1 Art 6 App B for a partial list of such organizations.

D. Exemption under section 501(c)(13) - This exemption applies to cemetery companies. According to IRS regulations, a cemetery company may be entitled to the 501(c)(13) exemption if it is owned by and operated exclusively for the

benefit of its lot owners who hold such lots for bona fide burial purposes and not for purposes of resale, or if the company is not operated for profit.

E. State or local government units - State or local government units tax exempt status ordinarily can be determined without difficulty. The unit's connection with the state or local government is usually known or easily ascertained.

605.55.13 Development When Organization Furnishes Goods, Services or Burial Plot, But Has Not Filed Claim

When a claimant states on his application, or it is otherwise known, that a tax exempt organization furnished goods, services, or burial plot but has not filed an application, take action as follows:

- Determine the organizations eligibility for reimbursement; and
- Develop the value of goods, services or burial plot furnished by the organization; and
- Secure an application on behalf of the organization. If they do not wish to file, secure a signed statement on the organization's letterhead advising that they waive reimbursement. This may permit payment of their share to other equitably entitled persons.

605.55.14 Determining Value of Goods, Services, or Burial Plots If Tax-Exempt Organization Is Involved

A. General - Develop the value of goods or services furnished by an organization only if the organization says it has a 501(c)(3) or (13) tax exemption or that a request for an exemption is pending. In the latter case, when application is transmitted, advise on transmittal that tax exemption is pending. HQ will then make a decision on the organization's tax exempt status.

To develop the value of items furnished, ask the organization for a signed statement of their value. When one unit of the organization furnishes goods, services or a burial plot, and bills another unit of the same organization, accept without question the receipted bill as evidence of value.

B. Goods - Advise the organization to base the value of the cost of the goods at the time furnished on the basis of the organization's going to its regular source of supply and replacing the goods furnished.

C. Services - If services are performed by an employee of the organization, gauge the value by the employee's wage scale and the length of time devoted to such services. When the organization contracts for such services with an outsider, e.g., a funeral home, local grave digger, etc., the amount the organization pays for such services should be reimbursable on a "payment" basis.

D. Burial plot - If an organization furnishes a burial plot, it may be equitably entitled to the extent of the reasonable value of the plot. What is a reasonable value depends upon the type and location of the space furnished.

A municipality may be equitably entitled with respect to space furnished in a potter's field. Also, a cemetery company which has a 501(c)(3) or (13) exemption may be equitably entitled with respect to a plot furnished even though it is in the business of selling lots.

NOTE: When one of these organizations pays ALL of the B/E, and the amount of such expenses clearly exceeds the amount of the LSDP, it is not necessary to be precise as to the actual cost of the items furnished. When the LSDP is prorated, however, and the organization's stated value raises a question regarding its reasonableness, the other claimant(s) should be asked about the accuracy of the organization's stated value. If they consider it reasonable, we will accept the stated value. If the other claimants question the expenses claimed by the organization, inform Survivor Benefits. Survivor Benefits will make a decision regarding the appropriate share of the LSDP due each claimant.

605.55.15 State or Local Government Unit Pays B/E

A. General - A state or local governmental unit (including the District of Columbia) paying the B/E of an insured employee may be equitably entitled. For example, a welfare department may pay the B/E of an indigent individual from old age assistance funds or a government unit (other than a county in Indiana or Montana) may make an allowance toward the B/E of a veteran. It is not the RRB's policy to solicit applications from such governmental units unless an RLS is payable and there are other beneficiaries involved or unless part of the B/E are paid by the employee's estate and we may make payment to the estate under "No Administration" procedure. However, if any such unit is equitably entitled and voluntarily indicates a desire to file, obtain an application.

A political subdivision of Indiana or Montana may not file for reimbursement of an allowance toward the B/E of a veteran.

Any authorized official of such unit may file an application on its behalf. A statement by the official on the application under "Remarks" that he is authorized is ordinarily acceptable evidence of his authority; in case of doubt, secure more formal evidence.

B. Entitlement when state reimburses county - Various state welfare programs provide for reimbursing a county that pays the B/E of an indigent individual. When this is done, the state is entitled to all or a proportionate share of the LSDP depending upon the extent of reimbursement. However, when the state has authorized the county to make application for the state's share of the LSDP, the full amount can be paid to the county even though it has been, or expects to be reimbursed by the state.

C. Entitlement when government unit pays B/E from funds placed in its care pursuant to a trust agreement - When an employee transfers his assets, including personal funds, property or proceeds from insurance policies, to a governmental unit under a trust agreement whereby such unit assumes the obligation of defraying the B/E from the funds entrusted to its care, award the LSDP to such unit. Handle as if developing from an executor or administrator who pays the decedent's B/E from assets of the employee's estate in his custody.

605.60 Persons Not Equitably Entitled

605.60.1 Persons Not Equitably Entitled

The following persons are not considered equitably entitled. Any B/E paid by these persons must be subtracted from the total reimburseable B/E.

A. The United States Government or its wholly-owned agency or a foreign government.

NOTE: The U.S. Government recognizes Indian tribes as sovereign nations. Therefore, Indian tribes also are not equitably entitled.

B. A person contractually obligated to pay the employee's B/E.

C. A person who pays the B/E of the employee under a plan, system or a general practice if the employee was a member or an employee of such person (effective 9-15-67, this does not apply to fraternal organizations and nursing homes paying B/E under a general practice).

D. A person who has been wholly reimbursed from other sources. A person who has been PARTIALLY reimbursed from other sources is not equitably entitled to the extent of such partial reimbursement. If the payer of B/E expects reimbursement from the estate or other sources, see FOM1 605.55.4.

E. A person finally convicted of the felonious homicide of the employee.

F. A person who for any other reason has no equity with regard to the payment of the employee's B/E.

605.60.2 B/E Paid Under Workman's Compensation Law

No one is equitably entitled to reimbursement for B/E paid under a burial benefit provision of a workmen's compensation statute, EXCEPT for payments in Kentucky, South Carolina and Texas.

A. Kentucky - The person entitled to compensation or, if none, the employee's estate is equitably entitled when B/E are paid under the Kentucky Workman's Compensation Act.

B. South Carolina - Dependents entitled to compensation, if any, are equitably entitled to the extent compensation is withheld from the dependent.

C. Texas - Dependents entitled to compensation, if any, are equitably entitled when B/E are paid under the Texas Workman's Compensation Act. When there are no dependents, no one is equitably entitled.

605.65 Burial Expenses

605.65.1 What Constitutes Burial Expenses

A. General - Burial expenses (B/E) mean expenses in connection with the actual burial or other disposition of the remains of a deceased person. They include the burial plot, casket, clothing, cremation, urn, death certificates, embalming, flowers, hearse and car for funeral procession, minister, monument, newspaper notices, niche, opening and closing of grave, permits, perpetual care of grave, preparation of body for burial, religious services, shoes, telegrams, telephone calls, transportation of the body, traveling expenses (round trip) of person escorting the corpse or completing burial arrangements, expenses of scattering decedent’s ashes, etc.

Expenses such as a luncheon after the funeral, travel expenses of close relatives not involved in making the funeral arrangements, etc., are not B/E.

When there is some question whether an item is a B/E and its exclusion will not change the amount of the LSDP or the share due the person, exclude it in computing total reimbursable B/E.

B. Burial plots - When a person is equitably entitled because he paid for or furnished a burial plot, use the value of the plot at the time of the employee's burial in computing the person's share of the total reimbursable B/E and the LSDP. A receipted bill or a signed statement by a responsible official of the cemetery about the value of the plot proves its value.

When a multiple plot is bought or furnished for the burial of two or more persons, (one of whom is the employee) a proportionate part of its value is used in computing the reimbursable expenses. The burial plot is not a reimbursable item if the employee owned or had an interest in the plot in which he was buried.

605.65.2 When Burial Expenses Must Be Paid

There is no time limit when B/E must be paid. However, an applicant must file a timely application and pay such expenses to qualify for all or part of the LSDP. B/E still unpaid after the time for filing elapses must still be included in reimbursable B/E.

It is not necessary that B/E be paid before the application is filed; if an application is filed before B/E are paid, or additional B/E are paid after the application is filed, a

supplemental application will be required to update payment and reimbursement information.

If the application is not timely filed, the applicant cannot qualify for all or part of the LSDP, even if he pays B/E before the period for filing elapses.

NOTE: If an application was timely filed but denied because of failure to submit proof of B/E, the application can be reopened if the proof is submitted within one year of the denial notice, even if submitted after the two year filing period has expired (see below for handling instructions). However, if there is a discrepancy between the proof and the application that affects the payment of the LSDP, a new application must be filed. The two year filing limit does apply to the new application. Proof of B/E can also be submitted one year or more after the denial notice, but only if the applicant can prove it was not due to his or her negligence or lack of effort in obtaining the proof.

When the proof is submitted, compare the B/E information on the proof with the B/E information on the imaged original application. If there is no discrepancy that affects payment of the LSDP, complete the proofs screen. Enter in Remarks that the application was previously denied because proof of payment of B/E was not submitted, it is being reopened because the proof has been submitted and that the proof is online. Also send an email to SBD advising that the proof is online.

605.65.3 Inquiry About LSDP Before Burial Expenses Are Paid

A. FH expenses are unpaid - If someone inquires about the LSDP before FH expenses are paid, advise the person about the provisions of the law. If the person has assumed responsibility for the payment of FH expenses, he has the option of:

- Paying the FH and filing as an equitably entitled person; or
- Filing an application to authorize payment to the FH.

The decision must be his; do not recommend any course of action. In explaining the provisions of the law, point out the time limit for filing an application.

B. Burial expenses other than FH expenses are unpaid - If other B/E are involved and the person inquiring wants to file an application in advance of paying such expenses, tell him:

- FH expenses have first priority for reimbursement; and
- An application must be filed within 2 years of the date the employee died; and
- Such B/E must be paid before we can reimburse; payment cannot be assigned to cover any expenses that are not incurred by or through a FH.

605.65.4 Proof That Burial Expenses Have Been Paid

A. General - To prove payment of B/E, the applicant must ordinarily furnish either a fully completed Form G-273a or an itemized, receipted statement from the funeral director and other persons furnishing goods or services. If a receipt is furnished, it must identify the deceased person and must show:

1. The total amount of the ordinary B/E. This includes professional services, casket, embalming, certificates and permits. The cost of the individual items included in the ordinary B/E need not be shown.

2. The amount of other B/E not included in 1 above. This may include additional services and goods provided such as: burial plot, opening and closing grave, transportation of body, etc. When cash was advanced for any such items, the itemized statement should be noted to this effect.

3. The total amount of all B/E.

4. The name of each person who paid part of the B/E.

5. The amount and date of each payment.

6. The amount of B/E unpaid, if any.

If it is established, or it is a known fact, that it is not the funeral director's practice to give itemized bills or Form SSA-2872 is submitted, waive the requirement that the bill be itemized.

If there is a discrepancy between the amount alleged by the applicant and the amount shown by the receipts, do not reconcile it unless it will affect the amount payable to the funeral home or to the equitably entitled person(s). If it is necessary to reconcile a discrepancy, secure:

- A new Form G-273a or proof of B/E from the funeral home if the previous one submitted was incorrect; or

- A signed statement from the applicant if the Application AA-21 previously submitted was incorrect. The signed statement is acceptable in lieu of a Supp. AA-21.

Be sure that all B/E are accounted for, especially when the file shows that the employee died in one locality and was buried in another one.

B. Acceptable proofs - Acceptable proofs that B/E were paid are:

1. The original receipted bill or certified copy; or

2. Form G-273a, "Statement of Burial Expenses" (may also be used as POD); (NOTE: The signature on a G-273a received by facsimile is acceptable if the LSDP is to be paid to someone other than the funeral home or if the payer of the burial expenses has assigned the LSDP to the funeral home. If the LSDP is to be paid to the funeral home and it has not been assigned by the payer of the burial expenses, a hard copy of the signed G-273a is required; or

3. Form SSA-2872, SSA's "Statement of Burial Expenses."

C. Signature on funeral home bill - When the bill carries the words "received payment," "paid in full," "paid," or a phrase with the same meaning, accept it if it is initialed, signed or contains a rubber stamp imprint that includes the name of the funeral director or other person furnishing burial goods or services.

D. When receipt not required – Although securing a receipt for any B/E is always preferred, a receipt is not required for flowers, telegrams, phone calls, payment for religious ceremony, traveling expenses of person escorting the body during shipment or any other item for which a receipt may not be usually given. Listing these expenses and their respective amounts on the signed application or in a signed statement is acceptable.

605.65.5 All Burial Expenses Not Accounted For

When all expenses usually necessary for burial are not accounted for, additional development must be done. For example, if a proof shows an item of expense for sending the body from one city to another, but the statement of expenses does not include any item for goods or services in one of the cities, ask the applicant whether there were any expenses in that city.

605.65.6 Deduction For Allowances By VA For Burial, Plot, Etc.

A burial allowance of as much as $300 is payable by the VA towards the B/E of a veteran in non-service connected cases. Unless the veteran is buried in a national cemetery, a plot or interment allowance of up to $150.00 towards such costs is also payable. If the veteran died in a VA hospital or other Veteran's facility, the VA may also pay the cost of moving the body to the place of burial.

A larger burial allowance is payable by the VA when the veteran's death is service connected. In such a case, reasonable burial and funeral expenses up to a maximum of $1100 are payable (the maximum payable when the death of a Federal employee is the result of an injury incurred in the course of his employment.)

When a burial allowance, a plot allowance and/or the cost of transporting a body is paid by the VA or when a claim for such allowance(s) has been or will be filed, deduct the amount of such allowance(s) from:

- The total burial expenses; and

- The amount paid by the person who filed or expects to file a claim for the allowance(s).

605.65.7 B/E Paid By Department Of Defense

A. General - When a member of the Armed Forces dies while at his post of duty or at a service hospital, the appropriate service department provides for the preparation, embalming, encasement, and shipment of the body. The necessary burial goods and services are furnished by the Armed Forces or by an undertaker under contract with the Department of Defense.

If the serviceman dies while temporarily away from his duty station, the Department of Defense pays the person who furnishes the burial, or reimburses the person who pays B/E. When the body is buried in a national cemetery, the Department of Defense ordinarily furnishes all services.

B. Deductions From Reimbursable B/E When Serviceman Dies on Active Duty - If the applicant pays or assumes responsibility for payment of B/E and files or will file a claim for payment or reimbursement from the Department of Defense or a service department, deduct the amount indicated in 1 or 2 below.

If no claim has been or will be filed, do not make a deduction.

1. Service Department Makes Initial Arrangements - The amount the Department of Defense reimburses private persons depends upon the type of cemetery in which the serviceperson is interred or reinterred. Make deductions from B/E as follows:

a. Civilian Cemetery - If interment is in a private or civilian cemetery make the following deductions:

Date of Interment	Deduction
7/1/74 or later	$700
7/1/71 - 6/30/74	$625
2/1/68 - 6/30/71	$500
7/1/66 - 1/31/68	$300
6/30/66 or earlier	$200

b. Government Cemetery - If the serviceperson's remains were consigned to a funeral home and interment is made in a national or post cemetery, make the following deductions:

Date of Interment	Deduction
7/1/74 or later	$450
7/1/71 - 6/30/74	$375
2/1/68 - 6/30/71	$250
7/1/66 - 1/31/68	$150
6/30/66 or earlier	$125

When the serviceperson's remains are consigned direct to the superintendent of a national or post cemetery for interment, deduct $75.

Interment expenses include undertaker's fees, obituary notices, flowers, hearse, transportation for immediate relatives to and from the cemetery, minister's fees, vault, grave spaces, and preparation of the grave.

2. Private Person Makes All Arrangements - Occasionally, private persons make all arrangements, including preparation and shipment of the remains. The amount the Department of Defense reimburses such persons varies, but it never exceeds the amount given in 1 above.

   If the applicant does not know the amount of reimbursement, assume that B/E will be paid in full. When the applicant alleges that less than the full amount of B/E was paid, ask him to submit evidence of the amount of reimbursement.

605.65.8 Computing Total Reimbursable B/E

After determining the total amount of B/E claimed, compute the total reimbursable B/E by subtracting the following non-reimbursable B/E:

A. B/E paid or reimbursed by the U.S. Government or a Foreign Government; and

B. B/E paid by a person convicted of the employee's felonious homicide; and

C. Questionable items of B/E which, if omitted, will not affect payment of the LSDP in any way; and

D. B/E to which no one is equitably entitled; and

E. Small amounts contributed to a fund by numerous unidentified persons, providing it is ascertained from the custodian or another person with knowledge that:

1. The amount contributed by each person is small (not more than $2.00 each); and

2. A list of the contributors with the amount each gave cannot be furnished; and

3. The contributors have not asked to have their names and the amount given recorded nor have they shown any intention of seeking reimbursement.

NOTE: If the names of some of the contributors and the amounts given (even though small) can be furnished, such contributions are reimbursable.

605.70 Types Of Funds Used To Pay Burial Expenses

605.70.1 Personal Funds

The following may all be considered personal funds for the purpose of determining who is equitably entitled to reimbursement for having paid B/E:

A. An individual's own personal funds.

B. Funds owned jointly with the employee or a person equitably entitled who died before negotiating the LSDP check. This category includes proceeds of a bank account owned jointly with the deceased person. You may assume that the survivor or the person who withdrew the money has a right to the proceeds. When a question arises as to the person's right to withdraw funds from a joint account, ask him to furnish the following information:

- A copy of the application for a joint account made when the account was opened; and

- A statement by the bank as to who has the right to the proceeds.

Submit the above information and other proofs to Survivor Benefits. Survivor Benefits will make a final decision as to whether the funds may be considered personal funds.

C. Contributions of several persons into a pooled fund

1. Contributions - When burial expenses are paid by contributions, each contributor is equitably entitled to the extent of his contribution. Each contributor may file for the share of the LSDP to which he is entitled or assign his interest in the LSDP to another equitably entitled person by completing a Form G-131.

2. Pooled funds When burial expenses are paid by pooled contributions, the LSDP can be paid to the custodian of the fund if:

- The custodian pays the funeral director with the pooled funds; and
- Each contributor asks in writing that the entire LSDP be paid to the custodian (this statement is not required when each contributor gave only a small amount); and
- The custodian files for the LSDP and furnishes a signed statement which lists the contributors, the amounts given, and includes a statement similar to the following:

"I agree to distribute the lump-sum payment proportionately to the contributors of the fund used to pay the burial expenses. I am applying for all the persons listed herein."

Develop from the custodian of funds only when a large number of persons contributed various amounts and it would be impractical to secure applications from everyone who contributed. If the number of contributors is not large, develop fully from each person or secure "Assignment of Interest" Forms G-131.

D. Promissory notes - A negotiable promissory note given by an applicant and accepted by the FH is considered payment of FH expenses. Consider the note as the applicant's personal funds in determining equitable entitlement to reimbursement for having paid B/E. The fact that the money for that purpose was secured by a negotiable promissory note is immaterial.

Do not suggest this method of paying B/E to an applicant, funeral director or other interested person; however, upon specific inquiry refer applicant to an attorney.

E. Funds received pursuant to a contract or under a plan, system, or general practice - When the proceeds of an insurance contract, plan, system or general practice are used to pay B/E, determine whether there is a named beneficiary to such proceeds and whether he survived the employee. If there is a named beneficiary who survived the employee, the proceeds are considered his personal funds and as such make him equitably entitled unless he is acting as the agent or employee of the "person" who provides the money for the burial. The named beneficiary's estate is equitably entitled if he dies before negotiating the LSDP check.

605.70.2 Estate Funds

The following are all considered estate funds for the purpose of determining who is equitably entitled to reimbursement for having paid B/E:

A. Money found among the deceased's effects.

B. Funds obtained by selling the deceased's real or personal property.

C. Money on deposit in a bank account held only by the deceased. Money from a joint account is the personal property of the survivor.

D. Unpaid wages that the deceased's employer was holding for him.

E. Funds paid under a contract, plan, system or general practice. When the proceeds of contract, plan, system or general practice are used to pay B/E, determine whether there is a named beneficiary to such proceeds and whether he survived the employee. The proceeds are estate funds only if:

- No beneficiary was named; or
- The named beneficiary died before the employee; or
- The named beneficiary is the funeral home or director; or
- The named beneficiary is acting as the agent or employee of the "person" who provided the money for the burial.

If the claimant does not know whether a beneficiary was named or there is reason to doubt his statement that no beneficiary was named or survived the employee, ask him to submit a statement from the "person" who furnished the money for the burial or from two close relatives of the employee.

F. Money from a trust fund - When money from a trust fund is used to pay B/E, the lump-sum death payment can be paid to the Trust Officer for the estate of the deceased employee under the following conditions:

- The trust remains in force up to the employee's death, and
- The trust agreement provides for disposition of the residue of the fund.

If there is a question concerning any of these conditions or there is conflicting information, ask the Trust Officer to submit a certified copy of the trust agreement.

G. Burial expenses paid by a guardian or conservator from the deceased employee's funds - A guardianship or conservatorship ceases upon the ward's death. However, some states have statutes which authorize a guardian to contract for and pay burial expenses from guardianship funds following the death of the ward.

When information indicates that burial expenses were paid from guardianship or conservatorship funds, and the guardian indicates that he had statutory authority to pay burial expenses with the deceased's funds, develop as follows:

1. Secure an Application AA-21, proof of the employee's death, and proof of payment of burial expenses from the guardian or conservator; and

2. Ask the guardian to submit a statement from the court that indicates the guardian or conservator had the authority to pay burial expenses with guardianship funds.

   If the guardian or conservator submits proof of court authority to pay burial expenses from the deceased's funds, the LSDP can be paid to the guardian or conservator. Otherwise, the LSDP will be adjudicated under "No Administration" procedure in FOM1 620.45.

H. Burial contracted for by employee prior to death - If the employee pays for his burial before his death, consider his estate equitably entitled. The employee may prepay his B/E by one of the following methods:

- He may give a stipulated amount to a Funeral Home in return for a promise to bury; or

- He may pay premiums to a burial insurance company under a form of burial insurance contract, or he may pay dues to an organization that maintains a burial benefit plan; or

- He may contract for his burial with a home for the aged which is NOT tax exempt; or

- He may work for an employer who is under a contractual obligation to pay his B/E or who has a definitely established plan or system for the payment of B/E.

605.75 Payment Of LSDP To An Estate

When estate funds are used to pay burial expenses, the estate is equitably entitled. Payment due an estate can be made to the legal representative for the estate. When a legal representative has not or will not be appointed, the amount due the estate may not be payable.

605.75.1 Payment to Estate When Administrator or Executor Has Been Appointed and Paid B/E

A. Burial expenses paid from estate funds and an administrator has been appointed

Develop an Application AA-21 from the administrator. The application must be accompanied by one of the following:

- A certified copy of letters of appointment;
- A "short form" certificate;
- A certified copy of the order of appointment;
- Any official document issued by the clerk or other proper official of the appointing court confirming the administrator's appointment.

Certification of appointment made more than one year before filing an application, and transcriptions or certifications by anyone other than the proper court official are not acceptable. In such cases, have the administrator furnish a certified statement from the clerk of court showing that the appointment is still in full force and effect.

When payment is made to an administrator, any part of the amount due the estate which, if paid, would escheat to the state is withheld. Escheat occurs when there are no survivors legally entitled by reason of relationship to share in the estate, and the assets of the estate exceed the liabilities. The probability of escheat exists mostly in those cases in which a public administrator is appointed to represent the estate. When an administrator shows no relatives on the Application AA-21 be sure to ask him whether <u>any</u> relatives survive. Note in the remarks section of the Application AA-21 or the Form G-626 whether or not any relatives survive who could inherit the employee's estate. When there are relatives, secure the name and relationship of at least one of them.

B. <u>Burial expenses paid from estate funds and an executor has been appointed</u>

Develop an Application AA-21 from the executor. The application must be accompanied by a certified copy of letters testamentary. Letters testamentary issued more than 1 year before filing are not acceptable unless a certified statement from the clerk of the court is furnished showing that the letters testamentary is still in full force and effect.

When the deceased leaves a will and an executor is appointed, the fact that the will is submitted for probate is sufficient basis to assume that there are persons legally entitled to share in the estate and that there will be no escheat to the state.

NOTE: If the legal representative states that he used his own funds to pay B/E, he is paid as an equitably entitled person in his own right instead of as the legal representative and letters testamentary are not required.

605.75.2 Payment to Estate When There Is No Legal Representative

When an estate is equitably entitled to any part of an LSDP and no legal representative is to be appointed, the estate has already been closed or the estate will be handled under a state's "small estate statutes," payment may be made under "No

Administration" procedure. All or part of the LSDP may not be paid when "No Administration" is involved. Refer to FOM1 620 for detailed information about handling ”Small Estate” and “No Administration” cases.

605.80 Deferred Lump Sum Death Payment

605.80.1 General

A deferred LSDP is payable on the wage and/or compensation record of an insured employee if, after all current deductions required (e.g., work, child not in care), the total amount of the insurance annuities paid to survivors within 1 year after the employee's death is less than the LSDP that would have been paid if an insurance annuity had not been payable to any person for the month in which the employee died.

The deferred LSDP is payable at the expiration of 1 year after the employee's death. For example if the employee died on 3-23-2005, the deferred LSDP is payable after 3-23-2006.

Payment of the deferred LSDP is handled by Survivor Benefits.

605.80.2 Priority of Payment

A deferred LSDP is payable only to the widow(er) "living with" or “living in the same household with” the employee at the time of his death. Children and parents of the deceased employee cannot qualify for a deferred LSDP.

605.80.3 Entitlement Requirements

To be entitled to the deferred LSDP, a person must:

A. Be the widow(er) of the employee. The widow(er) is not disqualified because of remarriage on or before the first anniversary of the employee's death.

B. Have been "living with" the employee at the time of his death if the employee acquired his 120th month of railroad service before 1975.

C. Have been "living in the same household" with the employee at the time of his death if the employee acquired his 120th month of railroad service after 1974.

D. Be alive on the first anniversary of the employee's death.

E. Have filed a timely application. Refer to FOM1 605.80.5 for detailed information about when a deferred LSDP application is considered timely filed.

If the widow(er) meets the stated conditions and dies before receiving the deferred LSDP or negotiating the check, if the deferred LSDP was paid by check, the amount is not payable to anyone.

605.80.4 Amount of Payment

The deferred LSDP is equal to the amount by which the regular LSDP exceeds the total amount of the insurance annuities accruing (after all deductions due to work or child not in care) to the survivors of an employee in the 12-month period beginning with the month in which the employee died.

605.80.5 Application Requirement

An application for a deferred LSDP must be filed no later than the second anniversary of the employee's death.

An application filed for any type of survivor payment in the same case protects eligibility for the deferred LSDP.

If a widow(er) cancels an application for an insurance annuity, the application continues to be effective as an application for a deferred lump-sum payment.

The failure of the widow(er) to file an application in time to receive insurance annuities within the 1-year period following the employee's death does not prevent payment of the deferred LSDP. However, some type of survivor application must have been filed timely for the widow(er) to be entitled to the deferred LSDP.

EXAMPLE 1: The employee died on 1-15-2004. The L/W widow attained age 60 prior to the employee's death; however, because she was currently employed she did not want to file for an annuity. She is advised by the field office that a deferred LSDP may be payable a year after the employee's death if no monthly benefits are paid. She is also told to contact the field office before the second anniversary of the employee's death to file for payment of the deferred LSDP. The widow contacts the field office on 1-14-2006 and files for a WIA. The widow will be paid the deferred LSDP based on her WIA application filed within 2 years of the employee's death.

EXAMPLE 2: The employee died 7-5-2004. The L/W widow's DOB is 10-3-1941; however, she does not wish to file for a reduced age annuity. She is advised by the field office that a deferred LSDP may be payable if the monthly benefits paid in the year after the employee's death are less than the LSDP that would have been payable. She is further advised to contact the field office before the second anniversary of the employee's death to file for the deferred LSDP. The widow contacts the field office and files for a WIA on October 1, 2006. The widow would not qualify for a deferred LSDP because an application was not filed within 2 years of the employee's death. However, if widow had filed an Application AA-21 before 7/6/2006 she would have qualified for a deferred LSDP.

605.85 Foreign Deaths

605.85.1 General

Survivor Benefits handles the payment of the LSDP in foreign death cases. Development in Canadian and Mexican cases should be handled by the field offices assigned to the provinces, states or territories of those countries. Development in other foreign cases should be handled by the Chicago field office, often with the assistance of the local U.S. Foreign Service Office.

Cases involving deaths in foreign countries are handled the same way as any other lump sum case, except if the death occurred in Cape Verde Islands, Greece, Lebanon, Turkey and Norway. For these areas it is necessary to limit the amount of lump-sum awards since the expenses claimed do not always represent the actual cost of a burial. Refer to FOM1 605.85.3 for the dollar limits of reimbursable B/E for these areas.

Special procedures have also been included in FOM1 605.85.4 for handling deaths in Norway due to the fact that the Norwegian government has designated its probate courts to administer all estates for which an executor was not named.

605.85.2 B/E Paid In Foreign Currency

When burial expenses are paid in foreign currency, reimburse the claimant who is equitably entitled in an amount of U.S. currency equal to the exchange value of the foreign currency on the day that the B/E are paid by the claimant. To determine that amount, complete Form G-310, Conversion of Foreign Currency, and forward it to your lead or supervisor. (S)he will obtain the exchange rate and return the form to you.

605.85.3 Foreign Claims

A. Limitations on Reimbursable B/E - For the areas listed below, the maximum reimbursable B/E are given. Approval of B/E exceeding these limits is left to the discretion of the claims examiner depending on the particulars of the case. For example, the cost of transporting the body over a great distance or the cost of embalming the body in an area where it is not normally done (as in Greece) may increase the B/E.

   The place where the B/E were incurred will determine the amount of the lump sum. If B/E were incurred in more than one place, the higher allowance may be used if 25 percent or more of the B/E were incurred in the place with the higher allowance. If the place where the B/E were incurred cannot be determined, assume that they were incurred in the place of burial.

   If more than one claimant has established entitlement, pay each a prorated share of the allowance for the area. If there is a discrepancy as to the total B/E claimed, develop to reconcile the discrepancies.

   The areas and limitations are as follows:

1. Cape Verde Islands

   In the Cape Verde Islands the limitation is $70.

2. Greece

   In Greece the amount of lump sum payable is determined by the locale where the burial expenses were incurred.

   a. No Limitation - There is no limit on the lump sum payable where the burial expenses were incurred in the areas listed below. In those areas starred, however, there was a limitation of $230 for burial expenses incurred after April 1975 and before April 1977. Questions about the limitations in any areas listed prior to May 1975 should be referred to P&S – RAC.

*Acharnon	Kalamata	*Orestias
Argrinion	*Kalymnos	Patras
*Aigion	*Karditsa	*Preveza
*Alexandroupolis	*Karlovasi	*Ptolemais
*Amalias	*Kastoria	*Pyrgos
*Argos	Katerini	*Rethymnon
*Argostoli	Kavala	Rhodes
*Arta	*Kilkis metropolitan area (see following)	*Salamis
Athens-Pireaus metropolitan area (see following)	Komotini	Salonika (also known as Thessaloniki)
Canea	*Kos	Serrai
Chalkis	*Kozani	*Siderokastron
*Chios	*Kyparissia	*Sparti
Corfu (Kerkyra)	Lamia	*Syros (Ermoupolis)
*Corinthos	Larisa	*Trikala

Drama	*Lefkas	*Tripolis
*Edessa	*Livadia	*Tyrnavos
*Elefsis	*Megara	*Vathi (Samos)
*Filiatra	*Mesologion	*Veria
*Fiorina	*Messini	Volos
*Gianitsa	Mytilene	*Xanthi
*Grevena	*Nafpactos	*Zakvnthos (Zante)
*Gythion	Nafplion	
Ioannina	*Naoussa	
Iraklion	*Nigrita	

Included in the Athens-Pireaus area are the following municipalities:

Aeglaeo	Kallithea	Nea Penteli
Agia Barbara	Kalamaki	Nea Smyrna
Agia Parashevi	Kematero	Neo Faliro
Agion Anargyron	Keratsini	Neo Psychico
Agios Demetrios	Kesariani	Nikea
Agios Ioannis Rentis	Kifisia	Palco Faliro
Amarousi	Korydalos	Penteli
Argyroupolis	Koakouvaoones	Perama
Byron (Vyron)	Lykovrysi	Persisteri
Chaidari	Mangoufana	Petroupolis
Chalandri	Melissia	Psychiko
Cholargos	Moschato	Tavrou

Dafni (Ag. Demetrios)	Nea Chalkidon	Voula
Drapetsona	Nea Erythrea	Vrilissia
Filothe	Nea Filadelfia	Ymettos
Galatsi	Nea Tonia	Zographou
Glyfada (Evriali)	Nea Liosia	

Included in the Salonikvriali a metropolitan area are the following:

Ambelokepon	Koufalion	Salonika
Kalamaria	Neapolis	Sykeon

b. Limitation of $206

The limit for any area not specified in (a) above is $206 for expenses incurred after March 1977. During the period after April 1975 and before April 1977, the limit for these areas was $160. Questions involving the limits in effect prior to May 1975 should be referred to P&S – RAC.

3. LEBANON

In Lebanon, similar schedules have been established. If the burial expenses were incurred in Beirut, the maximum allowable LSDP is $200. If the burial expenses were incurred in Jouniye (Jounieh), Sidon, Tripoli, or Zanle, the maximum allowable LSDP is $150. For any other area, the maximum allowable LSDP is $125.

4. TURKEY

In Turkey, the maximum allowable LSDP is $175 if the burial expenses were incurred in Ankara, Istanbul, or Izmir. In any other locale, the maximum allowable amount is $100.

B. Initial Action on Protests and Complaints - If a beneficiary objects to our limitation of the LSDP when we pay the maximum reimbursable B/E, request the foreign service post having jurisdiction to investigate the validity of the claim. Use Code Letter 603 for this purpose; enclose photocopies of the letter(s) of complaint, the application(s) the death certificate, the funeral bills, and the translations of these documents. Contact P&S – RAC for the foreign service post that has jurisdiction of the area in which the beneficiary lives.

Acknowledge the beneficiary's inquiry and tell him/her that there will be a delay in providing him/her with a complete answer because we are investigating the matter. Make no reference in the letter that we are investigating through the State Department.

C. Concluding Action on Protests and Complaints - Following its investigation, the foreign service post sends us a report of its findings. Base your actions essentially on the facts and recommendations contained in the report, but also consider the opinions and judgments expressed by the investigator when evaluating each case. Take one of the conclusive actions outlined in 1 through 3 below when the circumstances described apply in a case.

1. Actual B/E Equal the Amount of LSDP Already Paid - Explain to the beneficiary why no additional payment will be made when:

   - The investigative report indicates that the B/E equal the amount already paid; or

   - The investigator was unable to establish the exact amount, but recommends that reimbursement should not exceed the established schedules.

2. Actual B/E Exceed the Amount of LSDP Already Paid - When the investigative report verifies that the funeral expenses exceeded the maximum reimbursable amount already paid, reopen the case in accordance with RCM 6.2 “Reopenings” and recertify the award. The total payment, of course, may not exceed the total LSDP payable.

3. Foreign Service Post Fails to Establish That an Inflated Claim Was Filed - If the foreign service post fails to establish that an inflated claim was filed and does not recommend a limitation on the amount of reimbursement, allow the full amount of the claimed funeral expenses when supported by an itemized receipt. The total payment, of course, may not exceed the total LSDP payable.

605.85.4 Burial In Norway

A. Norwegian Burial Allowance - A burial allowance of 300 crowns (Kroner) is paid under the Norwegian Health and Medical Insurance Plan (Trygdekasse) in the case of a deceased member. However, since no one is considered equitably entitled on the basis of this payment, deduct it from the total B/E. If payment is to be made to the employee's estate, see chapter 2.10 for information about the administration of estates in Norway.

B. Validity of Statements Issued by a Norwegian Probate Court - When submitted as evidence in the place of receipts, accept statements of a Norwegian Probate Court relating to death and B/E. The probate court is usually required to retain the original receipts covering payments made by the court (or by the authorized representative) on behalf of the estate. Accept such statements, if submitted, as just and correct proof of payment.

C. Corresponding With a Norwegian Probate Court - When writing to a Norweigan Probate Court, address the correspondence to the court and NOT to the judge of the court.

When designating the court as payee on an award form or notification letter, show the following: "The Probate Court of . . . . . as administrator of the Estate of . . . . . deceased".

605.90 Employee Died Before 10-1965

605.90.1 Conditions For Payment When Employee Died Before 10-1965

This section is included as a historical reference.

A. Entitlement Requirements When Employee Died After 9-1958 and Before 10-1965 - To be entitled to the deferred LSDP, a person had to file a timely application and:

1. Be the widow(er), child, or parent of the deceased employee; and

2. Be entitled to an insurance annuity on the first anniversary of the employee's death; and

3. Be the person(s) to whom the deferred LSDP was payable in the order of priority given in sec. B, below.

When a survivor of the employee met the conditions stated above but died before negotiating his/her check in payment of the deferred LSDP, the amount (s)he would have received became due and payable (in equal shares) to other entitled survivors in his/her same class. If there were no other entitled survivors in his/her same class, the amount was payable to entitled survivors in the next class. If there were no entitled survivors in the next class, the amount was not payable to anyone.

B. Priority of Payment When Employee Died After 9-1958 and Before 10-1965

A deferred LSDP was payable in the following order of priority and in the amount indicated:

1. Widow(er): Full amount.

2. Child(ren) of the deceased employee: Equal shares if more than one entitled child survived; full amount to a sole entitled child.

3. Parent(s) of the deceased employee: One-half to each parent if both were entitled to payment; full amount to a sole entitled parent.

If an insurance annuitant's entitlement ceased IN or BEFORE the anniversary month of the employee's death, (s)he could not receive any portion of the deferred LSDP.

C. Two-Year Period for Filing Application When Employee Died After 9-1958 and Before 10-1965 - An application for a deferred LSDP has to be filed no later than the second anniversary of the employee's death.

An application previously filed for any type of survivor payment in the same case was considered an application for a deferred LSDP.

A survivor's failure to file for and become entitled to an insurance annuity ON the first anniversary of the employee's death prevented that survivor from receiving any part of a deferred LSDP that otherwise was payable.