

5902-4-01

**Definitions.**

For purposes of Chapter 5902-4 of the Administrative Code, and except as otherwise provided, the following definitions shall apply:

- (A) “Afghanistan service” means military service within Afghanistan during the period between October 7, 2001, and the date determined by the president of the United States as the end of the involvement of the United States armed forces in Afghanistan.
- (B) “Child” when used in referring to the child of a deceased veteran, includes a child born as issue of a lawful marriage to which the deceased veteran was a part, a child who was legally adopted by the deceased veteran, the natural child of a deceased female veteran, and the child of a deceased male veteran for whom the parent-child relationship was lawfully established under a court or administrative proceeding.
- (C) “Domestic Service” means service within the territorial limits of the fifty states.
- (D) “Foreign service” means service in locations other than the territorial limits of the fifty states, excluding Persian gulf, Afghanistan, or Iraq service.
- (E) “Iraq service” means military service within Iraq during the period between March 19, 2003, and the date determined by the president of the United States as the end of the involvement in Iraq.
- (F) “Persian gulf service” means military service within the Persian gulf theater of operations during the period between August 2, 1990, and March 3, 1991.
- (G) “Persian gulf theater of operations” means the geographic area determined by the United States department of defense for the awarding of the southwest asia service medal for the period of time between August 2, 1990 through March 3, 1991.
- (H) “United States armed forces” includes the army, air force, navy, marine corps, and coast guard; any active reserve component of such forces; and members of the Ohio national guard serving on active duty.

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Rule Amplifies: Section 2r, Article VIII, Ohio Constitution

5902-4-02

**Compensation to living current and former armed forces members who served during the Persian gulf, Afghanistan, and Iraq conflicts.**

(A) The Persian gulf, Afghanistan, and Iraq conflicts compensation fund shall be paid out upon the order of the director of the department of veterans services, without necessity of appropriation by the general assembly, in payment of the expenses of administering this section and as compensation as follows to each person who applies properly and meets all of the following requirements:

(1) The person has served in active duty in the United States armed forces, except active duty for training only, at any time during at least one of the following time periods:

(a) between August 2, 1990, and March 3, 1991; or

(b) between October 7, 2001, and the date determined by the president of the United States as the end of involvement of the United States armed forces in Afghanistan; or

(c) between March 19, 2003, and the date determined by the president of the United States as the end of the involvement of the United States armed forces in Iraq.

(2) The person was separated from the United States armed forces under honorable conditions, is still serving in active duty service, or remains in any reserve component of the United States armed forces or in the Ohio national guard after serving on active duty.

(3) The person was an Ohio resident at the start of active duty service and is currently an Ohio resident.

(B) A person who meets all the requirements of paragraph (A) of this rule is entitled to, and may apply to receive, compensation as follows:

(1) Fifty dollars for each month of active domestic or foreign service during the compensable periods, not to exceed five hundred dollars, and

(2) One hundred dollars for each month of Persian Gulf, Afghanistan, or Iraq service during the compensable periods, not to exceed one thousand dollars.

(C) A person who qualifies for compensation under both paragraph (B) (1) and (2) may receive compensation for both types of service, but in no case may the total compensation paid to any person exceed one thousand five hundred dollars.

(D) Compensation for a fraction of a month of service shall be paid on the basis of one-thirtieth of the appropriate monthly amount for each day of service.

(E) A person who is medically discharged or medically retired from service due to combat-related disabilities sustained during Persian Gulf, Afghanistan, or Iraq service is entitled to, and may apply to receive, compensation of one thousand dollars without regard to the amount of time served in such service.

(F) A person who had been designated by the United States department of defense as missing in action as a result of honorable service during any of the compensable periods or had been held in enemy captivity during any of the compensable periods, is entitled to, and may apply for, a payment of five thousand dollars upon the person's release or location. Such payment replaces any other cash benefit payable under this rule, and the person's entitlement to such five thousand dollar payment is not affected by any earlier payment to the person's spouse, child, parent or person standing in loco parentis under rule 5902-4-03 of the Administrative Code.

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5902-4-03

**Compensation to living kin of deceased veteran who served during the Persian gulf, Afghanistan, and Iraq conflicts.**

- (A) The surviving spouse, surviving child or children, or surviving parent or parents, including a person or persons standing in loco parentis for one year preceding commencement of service in the United States armed forces, of a person whose death was not as a result of injuries or illness sustained in Persian gulf, Afghanistan, or Iraq service, is entitled to, and may apply to receive, the same amount of compensation that the person who served in the armed forces would have received under rule 5902-4-02 of the Administrative Code, if living.
- (B) If the United States department of veterans' affairs determines that the person's death was the result of injuries or illness sustained in Persian gulf, Afghanistan, or Iraq service, the person's survivor(s) is/are entitled to, and may apply for, a survivor's payment of five thousand dollars, regardless of the amount of compensation that the deceased would have been entitled to receive , if living.
- (C) Any survivor's compensation payments applied for under paragraphs (A) and (B) of this rule shall be made to the surviving spouse. If there is no surviving spouse, the payment shall go to the surviving child or children. If there are no surviving children, the payment shall go to the surviving parent or parents or person or persons standing in loco parentis for at least one year preceding commencement of service in the United States armed forces.

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5902-4-04

**Compensation paid to living kin of veteran missing in action during the Persian gulf, Afghanistan, and Iraq conflicts.**

- (A) The spouse, child or parent, including a person standing on loco parentis for at least one year preceding commencement of service in the United States armed forces, of a person designated by the United States department of defense as missing in action or held in enemy captivity as a result of honorable service during the Persian gulf, Afghanistan, or Iraq conflicts, is entitled to, and may apply for, a payment of five thousand dollars.
- (B) This payment replaces any other cash benefit payable under this chapter.
- (C) While the person is missing or held captive, the payment shall be made to the person's spouse. If there is no spouse to claim the payment, payment shall be made to the person's child or children. If the person does not have children, payment shall be made to the person's parent or parents or person or persons standing in loco parentis for at least one year preceding commencement of service in the United States armed forces.

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**Persons to whom compensation shall not be paid.**

Compensation shall not be paid under this chapter:

- (A) To any person who received from another state a bonus or compensation of a similar nature;
- (B) To any person who served less than ninety days in the United States armed forces, unless active duty was terminated as a result of injuries or illness sustained during Persian gulf, Afghanistan, or Iraq service during the compensable period; or
- (C) To any person for any time period spent under penal confinement during the compensable period.

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5902-4-06

Legal residence.

- (A) For purposes of this rule, the term "service member" shall mean the individual for whose military service compensation is sought, regardless of whether the application for compensation is filed by the individual on his or her own behalf; by a legally appointed guardian; or by his or her next of kin in the case of a deceased individual or an individual designated as missing in action or held in enemy captivity.
- (B) In order to be eligible for compensation under this chapter, the applicant must establish to the satisfaction to the director of the department of veterans services, that the service member was a legal resident of Ohio at the start of such service member's active duty service in the United States armed services. The proof of residence shall be the official military records of the United States or other evidence deemed sufficient by the director. In making a determination of the legal residence in cases where official military records do not show Ohio as the home of record at the start of active duty service, the director will apply a rebuttable presumption that the veteran was not a legal resident of Ohio. The applicant may rebut this presumption by submitting documents establishing to the satisfaction of the director that Ohio was the service member's legal residence.
- (C) In order to be eligible for compensation under this chapter the applicant must also establish to the satisfaction of the director that the service member, if living, is an Ohio resident at the time the application is filed. An applicant for compensation who is the survivor of a deceased service member or the next of kin of a service member designated as missing in action or held in enemy captivity need not be a resident of Ohio at the time the application is filed in order to be eligible for compensation under this chapter if all other criteria are met, however in the case of an application for compensation filed by the survivor of a deceased service member, such service member must have been an Ohio resident at the time of his/her death in order for his/her survivor to be eligible for payment of compensation.
- (D) A legal resident of Ohio is an individual for whom Ohio was the state of domicile and who did not claim legal residence in any other state for any purpose. A service member's legal residence in Ohio is not changed by virtue of military assignment to another state.
- (E) Documents that the director may consider to determine the residency of a service member under paragraphs (B) and (C) of this rule include, but are not limited to, the following:
- (1) Voter registration records;
  - (2) Proof of payment of Ohio state income tax as a resident;
  - (3) Ohio driver's license;

- (4) Other proof of Ohio residence address, including high school diploma or attendance record for Ohio high school, real estate records, utility receipts and other records showing residence in Ohio; and
- (5) An affidavit of residence submitted by the service member or other person having knowledge of such facts under penalty of law in which the affiant swears or affirms that the service member was a resident of Ohio at the start of his/her active duty and/or is a current Ohio resident.

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5902-4-07

**Applications for compensation.**

- (A) Applications for payment of compensation from the Persian gulf, Afghanistan, and Iraq conflicts compensation fund must be made to the department of veterans services. All applications must be in writing on forms approved by the department of veterans services.
- (B) No sale or assignment of any right or claim to compensation under this chapter shall be valid. No claims of creditors shall be enforceable against rights or claims to or payments of compensation under this chapter. No fees shall be charged for services in connection with the prosecution of any right or claim to compensation or the collection of any compensation under this chapter.
- (C) All applications for payment of compensation under this chapter shall be made to the department of veterans services according to the following schedule:
- (1) For Persian gulf service, not later than December 31, 2013;
  - (2) For Afghanistan service, not later than three years after the date determined by the president of the United States as the end of involvement of the United States armed forces in Afghanistan;
  - (3) For Iraq service, not later than three years after the date determined by the president of the United States as the end of involvement of the United States armed forces in Iraq;
- (D) Each applicant for compensation under this chapter shall complete IRS Form W-9, Request for Taxpayer Identification. Instructions for completing Form W-9, together with the W-9 Form, will be included in the application documents.

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5902-4-08

**Availability of funding for the program.**

Notwithstanding any other provision to the contrary, valid claims for cash compensation made under these rules shall be paid only if adequate funds remain in the Persian gulf, Afghanistan, and Iraq conflicts compensation fund.

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5902-4-09

**Applications for compensation to incompetent persons.**

(A) An application for the payment of compensation based upon service of a living person in the armed forces of the United States in the Persian gulf, Afghanistan, and Iraq conflicts must be made by such person, unless such person is the ward of a legally appointed and acting guardian or unless such person is mentally or physically incompetent to make an application.

(B) If the person entitled to compensation under this chapter, including a survivor, is the ward of a legally appointed and acting guardian, the application must be made by such guardian, which must be filled in by such guardian just as though it was being filled in by the ward, excepting that at the place in the application form provided for the applicant's signature, the guardian must sign the ward's name and his/her own name followed by the words to indicate the guardianship and he/she must affirm to the truth of the application.

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5902-4-10

**Applications for compensation for deceased veterans.**

- (A) Any application for the payment of compensation under this chapter based upon the service of a deceased veteran must be made by the veteran's surviving spouse; if there is no surviving spouse, the application must be made by the child or children of such deceased veteran; if there is no surviving spouse and no surviving child or children, the application must be made by a surviving parent or surviving parents or person or persons standing in loco parentis for at least one year preceding commencement of service in the United States armed forces of such deceased veteran; provided, however, that if any of the kin of a deceased veteran mentioned in this paragraph, who may be entitled to compensation shall be the ward of a legally appointed and acting guardian, such guardian alone shall be entitled to make the application on behalf of such ward. An application by a guardian must be made, which must be filled in by the guardian as though it were being filled in by the ward, excepting that at the place in the application form provided for the applicant's signature, the guardian must sign the ward's name and his/her own name followed by words to indicate his/her guardianship and his/her affirmation of the truth of the application.
- (B) If there is no surviving spouse of a deceased veteran, and if there is more than one living child of such deceased veteran an application for compensation shall be made by or on behalf of each child separately. If there is no surviving spouse of a deceased veteran, and if there are no living children of such deceased veteran, and if there is more than one living parent of such deceased veteran, an application for compensation shall be made separately by each of them
- (C) The surviving spouse of more than one deceased veteran shall be entitled to compensation based upon the service of each deceased veteran. Separate applications must be filed. The parent or parents of more than one deceased veteran who is not survived by a spouse, child or children, shall be entitled to compensation based upon the service of each of such deceased veterans. Separate applications for compensation by reason of the death of each of such deceased veterans, must be filed by such parent or parents.

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5902-4-11**Department shall appoint counsel and employees as necessary.**

In order to carry out the duties imposed by this chapter, the director of the department of veterans services shall select and appoint legal counsel and employees as are necessary, fix their compensation, and prescribe their duties. All such appointees shall be in the unclassified service of the state of Ohio and shall serve at the pleasure of the director.

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5902-4-12

**Payments of compensation.**

- (A) Payments of compensation will be made from the Persian gulf, Afghanistan, and Iraq conflicts compensation fund by warrants (checks) drawn upon such fund by order of the director of the department of veterans services. Such warrants will be paid by the state of Ohio when properly endorsed and presented through any bank.
- (B) In the case of the compensation awarded on an application made by a living person, the warrant in payment of such compensation shall be made payable to such person regardless of whether he/she is more or less than eighteen (18) years of age; provided, however, that if it shall appear to the satisfaction of the director of the department of veterans services prior to the time the warrant in payment of the compensation awarded shall have been presented to the state of Ohio for payment, that such person is the ward of a legally appointed and acting guardian who was appointed subsequent to the execution of the application, the warrant in payment of such compensation shall be made payable to such guardian.
- (C) In the case of compensation awarded on an application made by a legally appointed and acting guardian, the warrant in payment of such compensation will be made payable to such guardian.
- (D) Warrants in payment of compensation on all other applications will be made payable to the applicants.
- (E) Warrants in payment of compensation must be endorsed personally by persons to whom they are payable, provided, however, where to obtain a personal endorsement would cause extreme hardship, counsel for the department of veterans services may approve an endorsement by an individual holding a proper power of attorney. If the person to whom a warrant is made payable shall die before personally endorsing the warrant, the warrant shall be returned to the department of veterans services and deposited in the Persian gulf, Afghanistan, and Iraq conflicts compensation fund. If the ward of a legally appointed guardian shall die before the warrant is personally endorsed by the guardian, the warrant shall be returned to the department of veterans services and deposited in the Persian gulf, Afghanistan, and Iraq conflicts compensation fund.
- (F) Compensation from the Persian gulf, Afghanistan, and Iraq conflicts compensation fund shall not be payable to an executor or administrator of a deceased person.
- (G) In each case where compensation is payable to the children of a deceased veteran, each child shall be entitled to the total amount of compensation awarded by reason of the deceased veteran's service in the armed forces of the United States divided by the number of such children living at the time of the payment of compensation. A warrant will be issued to each such child for the share of such compensation due such child, upon such child's application therefore.
- (H) In each case where compensation is payable to the parent of a deceased veteran, each

such parent shall be entitled to the total amount of compensation awarded by reason of the deceased veteran's service in the armed forces of the United States divided by the number of such parents living at the time of the payment of compensation. A warrant will be issued to each such parent for the share of such compensation due such child, upon such parent's application therefore.

(I) Compensation for a fraction of a month of service shall be paid on the basis of one-thirtieth of the monthly amount payable for such service for each day of such service.

(J) Warrants from the Persian gulf, Afghanistan, and Iraq conflicts compensation fund mailed to applicants for compensation must be understood by the applicants receiving same to be in full settlement of their claims for compensation unless the warrant is accompanied by a communication from the director of the department of veterans services indicating otherwise.

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5902-4-13**Determination of sufficiency of documentation.**

Determinations as to the sufficiency of documentation submitted in support of applications for compensation submitted under this chapter, whether by current or former service members, guardians of current or former service members, or the next of kin of current or former service members shall rest within the discretion of the director of the department of veterans services.

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