



DEPARTMENT OF VETERANS AFFAIRS

November 20, 2024

In Reply Refer To: 310/PMC/T4/SO  
XSS 23 [REDACTED]

Dear Mrs. [REDACTED]

We made a decision on your claim for Dependency and Indemnity Compensation (DIC), Survivors Pension, and Accrued benefits received on May 11, 2023.

Every effort was made in considering your claim. This notification tells you what we decided, how we made our decision and what evidence we used to make our decision. We have also included information on what to do if you disagree with our decision and who to contact if you have questions or need assistance.

**What We Decided**

We denied your claim for Dependency and Indemnity Compensation (DIC), Survivors Pension, and Accrued benefits.

Entitlement to Aid and Attendance for Myra Martin is denied.

**How Did We Make Our Decision?**

For the elements not met that are required to grant benefits, please see the denial reasons below.

We have enclosed a copy of your Rating Decision for your review. It provides a detailed explanation of our decision to deny DIC, the evidence considered and the reasons for our decision. Your Rating Decision and this letter constitute our decision based on your claim received on May 11, 2023. It represents all claims we understood to be specifically made, implied, or inferred in that claim.

The evidence shows your income of \$15,525.00 effective July 1<sup>st</sup>, 2023 exceeds the maximum annual survivors pension limit set by law.

The income limit for a surviving spouse with no dependent(s) for 2023 is \$11,102.00.

|  | Annual<br>Earnings | Annual<br>Social<br>Security | Annual<br>Retirement | Interest |
|--|--------------------|------------------------------|----------------------|----------|
|--|--------------------|------------------------------|----------------------|----------|

|          |     |             |        |     |
|----------|-----|-------------|--------|-----|
|          |     |             |        |     |
| Yourself | \$0 | \$15,864.00 | \$0.00 | \$0 |

*We considered medical expenses of \$73.00 which reduced your countable income to \$15,525.00, but your income is still over the applicable limit.*

**Social Security Income Discrepancy:** On your application for benefits you claimed \$1,179.00 in monthly Social Security Benefits. We have verified with SSA that your monthly benefit is \$1,322.00, so we have counted this higher amount. If you have evidence from SSA showing that this is incorrect, and you wish to use one of the disagreement options listed below for us to review your claim, please also submit this evidence of your gross Social Security income, prior to deductions.

We considered your reported expenses for Medicare Supplemental Insurance Coverage of \$73.00.

We could not consider your Medicare premium of \$233, as this amount is paid by the state. We also could not consider your Banker's Life Insurance premium of \$224, Balch Vision Care of \$200, CVS Pharmacy Prescription/Non-Prescription Medications of \$313, and Transportation Doctor's Appointments of \$155.19, because these expenses combined on your application makes the amount of each expense and the date each expense was incurred **ambiguous**. Please note, if these expenses were considered, your income for VA purposes would still exceed the maximum annual survivors pension limit set by law without additional reduction(s).

You may reapply for Survivors' pension when:

- your income drops, *or*
- the medical expenses you pay increase.

Should your circumstances change, complete and return the enclosed VA Form 21P-534EZ Application for DIC, Survivors Pension, and/or Accrued Benefits and VA Form 21P-0969 Income and Asset Statement in Support of Claim for Pension or Parents' Dependency and Indemnity Compensation (DIC).

**Note:** You may still be entitled to pension from the date of this claim if your unreimbursed medical expenses reduce your income below the allowable limit. For such consideration, in addition to the forms listed above, please also complete the enclosed Medical Expense Report showing your unreimbursed medical expenses paid on or after May 11, 2023 and return it to us no later than December 31, 2025.

An Accrued benefit is any money we owe a Veteran at the time of death. We can't approve your claim for Accrued benefits because VA didn't owe the Veteran any money.

### Evidence Used to Decide Your Claim

In making our decision, in addition to the evidence in the attached Rating Decision, we used the following evidence:

- Rating Decision Narrative dated November 1, 2024.

### What You Should Do If You Disagree With Our Decision

If you do not agree with this decision, you have one year from the date of this letter to select a review option to preserve your earliest effective benefit date. The review options and their proper applications are as follows, for a(n):

- **Supplemental Claim**, complete **VA Form 20-0995**, *Decision Review Request: Supplemental Claim*.
- **Higher-Level Review**, complete **VA Form 20-0996**, *Decision Review Request: Higher-Level Review*.
- **Appeal to the Board**, complete **VA Form 10182**, *Decision Review Request: Board Appeal (Notice of Disagreement)*.

Please see the enclosed VA Form 20-0998, *Your Rights To Seek Further Review Of Our Decision*. It explains your options for an additional review. You may obtain any of the required application by downloading them from [www.va.gov/vaforms/](http://www.va.gov/vaforms/) or by contacting us. You can also learn more about the disagreement process at [www.va.gov/decision-reviews](http://www.va.gov/decision-reviews). If you would like to obtain or access evidence used in making this decision, please contact us as noted below. Some evidence may be obtained by signing in at [www.va.gov](http://www.va.gov).

### If You Have Questions or Need Assistance

If you have any questions, you may contact us by telephone, e-mail, or letter.

| If you           | Here is what to do.                                                                                                                                                                                                                                             |
|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Telephone        | Call us at 1-877-294-6380. If you use a Telecommunications Device for the Deaf (TDD), the Federal number is 711.                                                                                                                                                |
| Use the Internet | Send electronic inquiries through the Internet at <a href="https://ask.va.gov/">https://ask.va.gov/</a> .                                                                                                                                                       |
| Write            | VA now uses a centralized mail system. For all written communications, put your full name and VA file number in the letter. Please mail all written correspondence to the appropriate address listed on the attached <i>Where to Send Your Correspondence</i> . |

In all cases, be sure to refer to your VA file number **23848370**.

If you are looking for general information about benefits and eligibility, you should visit our website at <https://www.va.gov>, or search the Frequently Asked Questions (FAQs) at <https://www.va.gov/contact-us/>

### **What is VA.gov**

VA.gov provides electronic resources in a self-service environment to Servicemembers, Veterans, and their families. Use of these resources often helps us serve you faster! Through the VA.gov website you can:

- Submit claims for benefits and/or upload documents directly to the VA
- Request to add or change your dependents
- Update your contact and direct deposit information and view payment history
- Track the status of your claim or appeal
- Obtain verification of military service, civil service preference, or VA benefits
- And much more!

Enrolling in VA.gov is easy. Just visit [www.va.gov](http://www.va.gov) for more information. If you submit a claim in the future, consider filing through VA.gov. Filing electronically, especially if you participate in our fully developed claim program, may result in a faster decision than if you submit your claim through the mail.

We sent a copy of this letter to your representative, **American Legion**, whom you can also contact if you have questions or need assistance.

Sincerely yours,

**RO Director**  
**VA Regional Office**

To email us visit <https://ask.va.gov/>.

Enclosure(s): Rating Decision

VA Form 21P-534EZ

VA Form 21P-0969

VA Form 21P-8416

VA Form 21P-10199 Legal Summary- Survivors Pension, Dependency and Indemnity Compensation, and Accrued Benefits

Where to Send Your Correspondence

VA Form 20-0998

cc: **American Legion**



**DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Regional Office**

[REDACTED]  
**VA File Number**  
**23** [REDACTED]

**Represented By:**  
**AMERICAN LEGION**  
**Rating Decision**  
**11/01/2024**

**INTRODUCTION**

The records reflect that MELVIN E. MARTIN was a Veteran of the Peacetime and Vietnam Era. The Veteran served in the Army from July 2, 1963 to October 28, 1966 and the Army Reserves from October 29, 1966 to July 1, 1969. You filed a new claim for benefits that was received on May 11, 2023. Based on a review of the evidence listed below, we have made the following decision(s) on your claim.

**DECISION**

1. Service connection for cause of death is denied.
2. MYRA MARTIN is not entitled to aid and attendance or housebound benefits.

**EVIDENCE**

- Negative Response from RRC dated September 27, 2024
  - RRC Request dated September 20, 2024
- 

- Correspondence received September 17, 2024
- Military personnel records received on August 29, 2024, for the period of service of July 1963 to October 1966
- Service treatment records, received on August 29, 2024, for the period of service of July 1963 to October 1966
- Rebuttal Correspondence received August 27, 2024
- VA Development Letter dated August 15, 2024
- VA Memo/Her Record negative for toxic exposure risk activity, dated June 14, 2024 and June 26, 2024
- Final Notification Letter dated June 14, 2024
- Section (§) 5103 Notice Response, received April 26, 2024
- Correspondence, received on March 04, 2024
- VA Form 27-0820, Report of General Information, received on February 29, 2024
- Marriage Certificate / License, received on February 23, 2024
- Correspondence, received on February 23, 2024
- VA Form 20-10208, Document/Evidence Submission, received December 21, 2023
- VA Form 21-4138, Statement In Support of Claim, received December 21, 2023
- Military Medals, Partial Reserve records, received on December 21, 2023, for the period of service of July 1963 to October 1966
- Certificate of Release or Discharge From Active Duty (e.g. DD 214, NOAA 56-16, PHS 1867), received on December 21, 2023, for the period of service of July 1963 to January 1966
- VA Form 27-0820, Report of General Information, received on November 24, 2023
- VA 21-686c Application Request To Add And/Or Remove Dependents, received on October 21, 2023
- List of diagnoses received October 21, 2023
- VA Form 21P-534EZ, Application for DIC, Survivors Pension, and/or Accrued Benefits, received on May 11, 2023
- VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance, received July 17, 2022
- HCA Florida Gainesville Internal Medicine Physicians records for claimant received July 17 2022
- Sacred Heart records for January 6, 2010 thru June 23, 2010
- VA 21-0966 Intent to File, received on April 14, 2022
- Invalid VA Form 21-22, Appointment of Veterans Service Organization as Claimant's Representative, received April 14, 2022
- Prior Rating Decision, dated April 11, 2002
- Biloxi/Pensacola VAMC records for January 30, 2002 thru January 31, 2012

## **REASONS FOR DECISION**

### **1. Service connection for the cause of death.**

The death of a Veteran will be considered as having been due to a service-connected disability when the evidence establishes that such disability was either the primary or contributory cause of death.

undetermined significance (MGUS); multiple myeloma; non-Hodgkin's lymphoma; Parkinson's disease; parkinsonism; early-onset peripheral neuropathy; porphyria cutanea tarda (PCT); prostate cancer; respiratory cancers (cancer of the lung, bronchus, larynx, or trachea); and softtissue sarcoma (other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma). PCT, chloracne, and early-onset peripheral neuropathy are required to become manifest to a compensable degree within one year from last exposure. (38 USC 1116; 38 CFR PL-117-168).

A review of the Veteran's records was conducted, and there is no evidence in the Veteran's record to substantiate service in the Republic of Vietnam or exposure to herbicides in any location. Therefore, presumptive consideration cannot be given with regards to Agent Orange exposure as such exposure is not conceded.

As of the date of this rating, we have not received evidence indicating that the Veteran's cause of death was related to military service. Entitlement to service connection for the cause of the Veteran's death is denied since the evidence fails to show that it was related to military service, to include Pact Act regulations. (38 CFR 3.312)

## **2. Entitlement to Aid and Attendance or Housebound benefits for MYRA MARTIN.**

Aid and attendance may be awarded when the claimant is blind in both eyes having visual acuity of 5/200 or less, or has contraction of the visual field to 5 degrees or less; is a patient in a nursing home because of mental or physical incapacity; or when the evidence shows aid and attendance is required to perform routine activities of daily living. The routine activities of daily living are basic self-care tasks which include such things as the ability to dress or undress one's self, to keep one's self ordinarily clean and presentable, ability to feed one's self, the ability to attend to the needs of nature, or the ability to protect one's self from the hazards or dangers incident to his or her daily environment. Special monthly entitlement based on the need for aid and attendance is not established because none of these requirements have been met.

A special monthly entitlement based on being housebound is met when the surviving spouse is substantially confined to his or her home or immediate premises by reason of a disability or disabilities which are reasonably certain will remain throughout the surviving spouse's lifetime. Special monthly entitlement on this basis is not established by the evidence of record. (38 CFR 3.351)

The medical evidence you submitted shows you need help getting in and out of the tub only, and you have no other restrictions.

## **REFERENCES:**

Title 38 of the Code of Federal Regulations, Pensions, Bonuses and Veterans' Relief contains the regulations of the Department of Veterans Affairs which govern entitlement to all Veteran

Prior to the Veteran's death, service connection had not been established for any disability. The death certificate recorded the Veteran's cause of death as cardiopulmonary arrest, COPD, tobacco abuse disorder, diabetes, congestive heart failure.

There is no evidence that diabetes, congestive heart failure manifested to a compensable degree within one year from the date of military discharge for consideration under 38 CFR 3.309 (a).

Review of the Veteran's service treatment records are silent for any findings, complaints, or treatment of cardiopulmonary arrest, COPD, tobacco abuse disorder, diabetes, congestive heart failure.

The VA obtained and reviewed the Veteran's treatment records from the VA Medical Center as outlined above in the "Evidence" section. These records show the diagnosis and treatment for multiple medical conditions. However, they do not show that the Veteran's death was due to military service or that the Veteran's service connected disabilities caused or contributed to his death.

In a letter to you dated June 14, 2024, we notified you we were unable to obtain the Veteran's Reserve military personnel and service treatment records during his reserves duty.

In a letter to you dated August 15, 2024, we requested you submit evidence regarding the Veteran's exposure to herbicides. We did not receive this evidence. We sent a request MRCC for verification of herbicide exposure. A negative response was received September 27, 2024. NOTE: The Citation, medals pages you submitted were during the Veteran's reserve duty. There is no evidence he was activated to active duty. Nor is there service treatment records of his being wounded and evacuated after this incident. RVN service is not established as the authenticity of these documents cannot be established and official records do not establish this. We sent a request MRCC for verification of herbicide exposure. A negative response was received September 27, 2024.

We considered whether the Veteran's condition resulted from a toxic exposure risk activity (TERA) in service; however, the evidence does not show that the Veteran participated in a TERA. (38 U.S.C. 1168, 38 U.S.C. 1710(e)(4))"

Under the provisions of 38 USC 1116, VA has determined that presumption of service connection based on locations associated with herbicide exposure is not warranted for any conditions other than those for which VA has found a positive association between the condition and such exposure. VA has determined that a positive association exists between exposure to herbicides and the subsequent development of the following conditions: AL amyloidosis; chloracne or other acne form disease consistent with chloracne; bladder cancer; type 2 diabetes (also known as type II diabetes mellitus or adult-onset diabetes); Hodgkin's disease; hypertension; hypothyroidism; ischemic heart disease (including, but not limited to, acute, subacute, and old myocardial infarction; atherosclerotic cardiovascular disease including coronary artery disease (including coronary spasm) and coronary bypass surgery; and stable, unstable, and Prinzmetal's angina); all chronic B-cell leukemias (including, but not limited to, hairy-cell leukemia and chronic lymphocytic leukemia); monoclonal gammopathy of

benefits. For additional information regarding applicable laws and regulations, please consult your local library, or visit us at our website, [www.va.gov](http://www.va.gov).



