

# Info for Widows

## **Annuitants to receive full SBP and DIC benefits**

Are you a Survivor Benefit Plan (SBP) annuitant who receives Dependency and Indemnity Compensation (DIC) from the Department of Veterans Affairs and who remarried after age 57? If so, a recent U.S. Court of Appeals decision may benefit you.

On August 26, 2009, the court upheld a decision in the matter of Sharp, et.al. v. the United States. According to the ruling, DFAS is no longer required to deduct DIC payments from monthly SBP annuities, if a person is entitled to both benefits and has remarried after age 57. The Sharp decision became final on October 19, 2009.

## **Who is eligible?**

SBP annuitants who are also entitled to DIC and who remarried after age 57, if current entitlement to DIC is the result of the remarriage after age 57.

## **Effective date**

The effective date is the date of remarriage, but not earlier than Jan. 1, 2004. Annuitants who remarried after age 57 and before January 1, 2004 may also be entitled, provided the annuitant applied to the VA to restore their DIC before December 16, 2004 and were granted such entitlement.

## **Timeline**

All SBP annuitants who are affected by the ruling are currently being identified.

DFAS will no longer deduct DIC payments from monthly annuities of customers who meet these criteria. These annuitants will receive their full monthly SBP entitlement in addition to the full monthly DIC. The first group of eligible annuitants will have their SBP annuity increased for the February 1, 2010 payment.

Effective with the February 1, 2010 payment annuitants who meet the eligibility criteria under the Sharp litigation will no longer receive the Special Survivor Indemnity Allowance (SSIA).

## **Retroactive payments**

In addition to the increased monthly SBP entitlement, some annuitants may be entitled to an additional retroactive annuity payment depending on the date of remarriage. Retroactive payments will be computed after the increased annuity payments are implemented. To determine who is entitled to retroactive payments, we will have to review each account, which will take several months.

### **Collection of cost refund and SSIA payments**

In order to determine whether an annuitant is entitled to a retroactive payment, DFAS must deduct any SBP premium cost refunds issued to an eligible annuitant, but not previously repaid. In addition, any special survivor indemnity allowance (SSIA) payments previously received will reduce the lump sum retroactive annuity payment. If the amount of the retroactive payment is less than the full amount of the cost refund and SSIA payments, the annuitant will be required to repay the balance of the previous cost refund.

DFAS is gathering information to determine which annuitants may be due additional annuity payments. After a thorough review of the accounts, we will notify affected annuitants of the amount of any retroactive SBP annuity payments due or the amount of any prior SBP cost refund that must be repaid. The specific terms for repaying any cost refund debt will be provided at that time. Due to the complexity of the computation and the need to search historical records, retroactive additional annuity payments will not be issued prior to April 1, 2010.

### **Federal tax implications**

A lump sum retroactive payment is taxable when it is issued. Retroactive payments issued in 2010 are considered taxable income for 2010 and will be reported as such to the Internal Revenue Service.

Annuitants may elect not to have income tax withheld from any lump sum retroactive payment by submitting a completed Form W-4P to DFAS. The completed form must specifically state that it is being submitted to apply to any lump sum retroactive annuity payment they are owed because of the Sharp case. If we do not receive a W-4P indicating "no withholding," we will withhold 10 percent of the lump sum payment.