



## VOLS Guide to Veterans' Burial Benefits

*This guide is for informational purposes only and does not constitute legal advice.*

If you are a veteran engaged in end-of-life planning, you may wonder whether you are eligible to be buried in a VA cemetery. You can ease the burden on your loved ones by finding out now whether or not you are eligible and obtaining a Pre-Need Eligibility Determination letter if you are eligible.

Even if you receive a pre-need eligibility determination for burial in a Veterans Administration ("VA") cemetery, and especially if you do not, your loved ones may incur costs for your final arrangements that are not covered. Your loved ones can apply for reimbursement of certain expenses from the VA and/or the New York State Division of Veteran Services (NYSDVS). There are also financial assistance options available to individuals regardless of the veteran status of the deceased loved one.

**This information is current as of July 2022 and all of it is subject to change.** If you have questions please contact the VOLS Veterans Initiative at 347-521-5725 or [jfenton@volsprobono.org](mailto:jfenton@volsprobono.org).

### **Burial in a National VA Cemetery**

#### **Getting A Pre-Need Eligibility Determination**

Qualifying veterans<sup>1</sup> can apply for a Pre-Need (before death) Eligibility Determination stating that they are eligible for burial in a VA national cemetery. If eligible, the VA will pay for the opening and closing of the grave, burial liner, headstone/other marker provided by the government, and ongoing care of the gravesite. In order to be eligible, the applying veteran must not have received a dishonorable

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<sup>1</sup> Spouses and minor children of qualifying veterans are also eligible for burial in a VA cemetery. So are disabled unmarried adult children of qualifying veterans. Those applying for pre-need eligibility for disabled unmarried adult children of a deceased veteran should also provide doctor-verified documents describing the disability, when it arose, how the adult child was dependent on the veteran, and the marital status of the adult child.

discharge.<sup>2</sup> In order to apply for a Pre-Need Eligibility Determination, the vet (or surviving family member seeking eligibility) should:<sup>3</sup>

1. Choose a VA cemetery from this [online list](#), or call the National Cemetery Scheduling Office at 800-535-1117 to obtain the list,<sup>4</sup> then
2. Gather the following information:
  - a. Social Security Number
  - b. Date and place of birth
  - c. Military status, service history, and discharge papers (DD214 or other separation documents); then
3. Apply:
  - a. Online at <https://www.va.gov/burials-and-memorials/pre-need/form-10007-apply-for-eligibility>, or
  - b. Mail the [Application for Pre-Need Eligibility for Burial in a VA National Cemetery \(VA Form 40-10007\)](#) to National Cemetery Scheduling Office, PO Box 510543, St. Louis, MO 63151. Call 800-535-1117 to obtain a copy of the form if you are unable to download from the internet, or
  - c. Fax the Application to 855-840-8299

If you do not have your discharge papers, you should contact the New York State Division of Veterans Services at 1-888-838-7697 for assistance obtaining them.

The VA will process your application and send you a letter informing you whether or not you are eligible. If you are eligible they will also send you a National Cemetery Administration brochure and burial benefits information sheet that will tell you more about the benefits you'll receive, along with a copy of your application.<sup>5</sup>

You should make sure your loved ones have a copy of your pre-need eligibility determination letter or that they will have access to it when you pass away. We recommend that you include information about your positive determination in a Control of Remains form, in which you can appoint an agent to handle the disposition of your

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<sup>2</sup> Servicemembers who died on active duty, active duty for training, or inactive duty for training are also eligible for burial. As they have already passed away, the discussion about pre-need eligibility does not apply in such a situation.

<sup>3</sup> If you are applying on behalf of someone else, you will need to also submit an Appointment of Individual as Claimant's Representative ([VA Form 21-22a](#)). You will also need to select box 33B on the application and complete blocks 34-37, and provide supporting documents explaining your relationship to the person applying and why they cannot sign.

<sup>4</sup> State/tribal veterans cemeteries have their own pre-need eligibility criteria and should be contacted directly regarding same if burial in a state/tribal cemetery is preferred.

<sup>5</sup> If you receive a letter saying you are not eligible for this benefit, you will also receive a form explaining your right to appeal and how to submit more evidence. Contact the New York State Division of Veterans Services at 888-838-7697 if you need assistance appealing.

remains after you pass away. If you are interested in obtaining a Control of Remains form, please contact the VOLS Veterans Initiative at 347-521-5725 or by email to [jfenton@volsprobono.org](mailto:jfenton@volsprobono.org).

When you pass away, your loved ones should call the National Cemetery Scheduling Office at 800-535-1117 to request your burial in a VA national cemetery, using your pre-need determination letter as proof of eligibility for same.

**“I’m the loved one of a vet who did not get a pre-need eligibility determination. Can the vet still be buried in a VA national cemetery?”**

Veterans (or their spouse, minor child, or disabled unmarried adult child) who did not request a pre-need eligibility determination can still be buried in a VA national cemetery as long as the veteran was not discharged dishonorably. Likewise, survivors of veterans who were discharged dishonorably and later obtained a discharge upgrade should apply for the veteran’s burial at the time of need (even and especially if the veteran was previously determined to be ineligible due to discharge status).

## **VA Death Benefits/Burial Allowance**

Whether or not a veteran is buried in VA national cemetery, survivors of veterans may qualify for a burial allowance from the VA, so long as they are not already being reimbursed by another agency and so long as the alleged costs have not already been covered by the VA. In order to qualify:

- The person applying for reimbursement must be the deceased veteran’s spouse/domestic partner, child, parent, or executor/administrator of the estate, and
- Either
  - The deceased veteran must not have been discharged dishonorably *and* must have died:
    - As a result of a service connected disability, or
    - While getting VA care, or
    - While traveling with VA authorization and at VA expense to/from a facility for an examination or to receive treatment or care, or
    - With an original or reopened claim for VA compensation or pension pending at the time of death if they would have been entitled to benefits before death, or
    - While receiving a VA pension or compensation, or
    - While eligible for a VA pension or compensation but instead received full military retirement or disability pay

- Or
  - The deceased veteran was receiving VA pension/compensation when they died, or
  - The deceased veteran had chosen to get military retired pay instead of compensation

Survivors of deceased veterans who died on active duty cannot apply for burial allowance because those veterans will be buried in a VA national cemetery at the VA's expense (such that survivors should have occurred no out of pocket costs). Survivors of veterans who died while serving as members of Congress or while serving a federal prison sentence are also not entitled to a burial allowance.

The types of expenses that the VA may cover through the allowance include:

- Burial, which the VA defines as all legal methods of disposing of the veteran's remains, including, but not limited to, cremation, burial at sea, and medical school donation
- The cost of the plot/interment (unless buried in a national cemetery or other cemetery under the jurisdiction of the United States as the VA already would have covered these costs)
- Transportation expenses where the veteran:
  - Died of a service-connected disability or had a compensable service-connected disability and burial is in a VA national cemetery
  - Died while in a hospital/other facility to which they had been properly admitted under the authority of the VA
  - Died en route while traveling under VA authorization for the purpose of treatment/examination or
  - The veterans remains are unclaimed and will be buried in a national cemetery.

The VA will not pay for funeral director services, including cremation.

Surviving spouses of veterans will automatically be paid a set amount by the VA upon notification of the veteran's passing (so long as the spouse is listed on the veteran's profile). Other survivors can apply [online](#) or by mailing VA Form 21P-530a, along with supporting documentation, to the nearest VA regional office. To obtain a hard copy of the form and find out which office you should mail the form and other documents to, please call the VA benefits hotline at (800) 827-1000.

The maximum amount of the allowance the VA will disburse depends on several factors.

- For service connected-deaths, the VA will pay \$2,000 to survivors of veterans who died on/before 9/11/01, and \$1,500 to survivors of veterans who died after

9/11/01. The VA may also reimburse survivors for part/all of the cost of transporting remains.

- For non-service-connected deaths, the maximum burial allowance also depends on when, and in some cases, where, the veteran died:

<b>Time of Death</b>	<b>Not hospitalized at VA</b>	<b>Hospitalized at VA</b>	<b>Headstone/Mar ker</b>
On/after 10/1/2021	\$300 for burial, \$828 for plot	\$828 for burial, \$828 for plot	\$231
10/1/2020 – 9/30/2021	\$300 for burial, \$807 for plot	\$807 for burial, \$807 for plot	\$231
10/1/2019 - 9/30/2020	\$300 for burial, \$796 for plot	\$796 for burial, \$796 for plot	\$236
10/1/2018 - 9/30/2019	\$300 for burial, \$780 for plot	\$780 for burial, \$780 for plot	\$290
10/1/2017 - 9/30/2018	\$300 for burial, \$762 for plot	\$762 for burial, \$762 for plot	\$195
10/1/2016 - 9/30/2017	\$300 for burial, \$749 for plot	\$749 for burial, \$749 for plot	\$208
10/1/2015 - 9/30/2016	\$300 for burial, \$747 for plot	\$747 for burial, \$747 for plot	\$218
10/1/2014 - 9/30/2015	\$300 for burial, \$745 for plot	\$745 for burial, \$745 for plot	\$199
10/1/2013 - 9/30/2014	\$300 for burial, \$734 for plot	\$734 for burial, \$734 for plot	\$205

The VA may also reimburse part/all of the cost of transportation of remains for survivors of veterans who were hospitalized or in a VA-contracted nursing home when they died, or who died while traveling to VA-authorized care.

## **New York State Supplemental Burial Allowance**

The state of New York offers a Supplemental Burial Allowance of up to \$6,000 to eligible individuals. This subsidy will not cover costs already covered by the federal government (including FEMA and the VA). Eligible individuals include those who

incurred part or all of the cost of a servicemember's burial/interment and who can prove their relationship to a deceased servicemember who:

- Was a New York State resident at the time of death OR
- Was a member of the New York Army National Guard or New York Air National Guard when they entered active duty status, and died during service

AND either:

- Passed away in a combat zone;
- Passed away while receiving hazardous duty pay per Title 37, Section 310 (A)(4) of the United States Code or
- Passed away from wounds sustained in a combat zone or while receiving hazardous pay.

Along with the application itself, applicants should also gather and submit:

- One document proving the servicemember's combat-related death (like a casualty report from the military, a death certificate listing cause of death, etc.)
- One document proving either:
  - That the servicemember was a resident of New York State OR
    - This includes but is not limited to: New York State Driver's License or non-driver identification card, voter registration, utility bill, residential lease signed within the last year, property tax or school tax bill or receipt from the last year, federal or New York State income tax or earning statement, etc.
  - That the servicemember was a New York Army National Guard or New York Air National Guard at the time when he/she entered active duty status, during which period of service he/she died
  - Receipts/invoices for money spent on burial/interment
  - Proof of applicant's family relationship to deceased servicemember
  - Documentation of any funds already received from the VA or FEMA to cover costs

Applicants should submit the [Burial Allowance application](#) and supporting documentation by mail to the New York State Division of Veterans' Services, Attn: Supplemental Burial Allowance, 2 Empire State Plaza, 17th Floor, Albany, NY 12223, or by email to [dvasupplmentburialallowance@veterans.ny.gov](mailto:dvasupplmentburialallowance@veterans.ny.gov) with the subject line "Supplemental Burial Allowance Application". You can obtain a copy of the form, and/or request assistance with filling it out, by calling the New York State Division of Veterans Services at 1-888-838-7697.

## **Non-Veteran-Specific Options for Financial Assistance**

In addition to resources offered by the VA and NYSDVS, the Federal Emergency Management Agency (FEMA) is currently offering financial assistance to survivors of loved ones who died from COVID-19. Additionally, the Human Resources Administration (HRA) also offers financial assistance for the cost of burial/interment to individuals with low-income who incurred expenses for the burial of a loved one. Please call 347-521-5725, email [jfenton@volspobono.org](mailto:jfenton@volspobono.org), or visit [volspobono.org/seniorlaw](http://volspobono.org/seniorlaw) to download a copy of our 2022 Guide to Obtaining Financial Assistance for Burials and Funerals in New York City for more information about these programs, which do not require a veteran connection in order to qualify.

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*This is legal information and does not constitute legal advice, nor is it an offer of representation. This guide was prepared by the VOLS Veterans Initiative in April 2021 and last updated in July 2022. If you have questions about the information in this guide please contact us at 347-521-5725 or [jfenton@volspobono.org](mailto:jfenton@volspobono.org).*