

October 14, 2014

Veterans Benefits Administration (20M33)
Department of Veterans Affairs
Attn: Crystal Rennie
VA Clearance Officer
810 Vermont Ave NW
Washington, D.C., DC 20420

RE: Proposed Information Collection (Application for Accrued Amounts Due a Deceased Beneficiary) Activity: Comment Request

Dear Ms. Rennie,

On behalf of Family Equality Council, please accept these comments on the Proposed Information Collection (Application for Accrued Amounts Due a Deceased Beneficiary) Activity: Comment Request.

Family Equality Council is a national organization working to ensure full social and legal equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) parents and their children by providing direct support, educating the American public, and securing inclusion in legislation, policies, and practices impacting families. On behalf of the more than three million LGBTQ parents and their six million children across the United States,¹ Family Equality Council would like to thank the Secretary and the Department for your work to provide inclusive and comprehensive services to LGBTQ veterans and their families across the United States.

Mother and Father Designations

VA Form 21-601 allows a survivor to apply for accrued benefits due to a deceased veteran, veteran's spouse, or veteran's child, but not paid prior to the beneficiary's death.² Question 10 in Section II of the form requires the individual completing the form to check boxes identifying all surviving relatives of the deceased beneficiary, including two boxes, one of which is labeled "Mother" and the other is labeled "Father."³ Survivors completing the form are subsequently asked to list identifying information for each of these surviving relatives as identified in Question 10.

The intent of this form is to identify all survivors to the deceased beneficiary, so as to facilitate the VBA ascertaining the surviving relative or relatives to whom benefits should flow under departmental policy governing succession of inheritance. Providing space for survivors to check a box for only one "Mother" or one "Father" when the form's intent is to determine whether one or both of the deceased beneficiary's parents is alive and therefore a potential recipient of benefits serves to confuse potential applicants and potentially delay or deny processing of the form where a now deceased preceding beneficiary had two mothers or two fathers. Labeling the fields "Mother" and "Father" adds nothing to the information gathered by the form that would not be ascertained by replacing both selections with one box designated "Parent or Parents."

¹ Movement Advancement Project, Family Equality Council and Center for American Progress, "All Children Matter: How Legal and Social Inequalities Hurt LGBT Families," October 2011, *Issue Brief: Obstacles and Opportunities: Ensuring Health and Wellness for LGBT Families*.

² VA Form 21-601 - Application for Accrued Amounts Due to a Deceased Beneficiary

³ *Id.* at Question 8.

Recommendations

The “Mother” and “Father” fields can easily be combined to read “Parent or Parents” without undermining or compromising the information gained from VA Form 21-601. The Secretary of Veterans Affairs has the authority to change this form as granted by 5 U.S.C § 301 and 38 U.S.C. § 501.⁴ Neither the governing statutes nor the implementing regulations mandate that the form request information about any specific relative, let alone only one mother and one father; therefore, this form does not require statutory or regulatory changes in order to be modernized.⁵

The federal government’s thousands of programs, services, and benefits are intended to be accessible to all Americans who qualify, and the language we use to determine eligibility for those benefits carries significant tangible and symbolic consequences for LGBTQ families. Changing form VA 21-601 to read “Parent or Parents” rather than “Mother” and “Father” will be a cost-neutral change that would more accurately reflect the varied composition of today’s families. Updating these fields to be inclusive of families with two parents of the same-sex will also increase governmental efficiency by alleviating the needless confusion, delays, and denials caused by current, outdated forms. The exclusionary effect of the gendered statutory language struck down by the Supreme Court’s ruling in *U.S. v. Windsor*⁶ shows how gendered spousal fields and terms like those seen here exclude millions of Americans from benefits, services, and programs; updating this form and forms like it to be inclusive of all families will ensure these benefits are available and awarded appropriately to all who are eligible for them.

We respectfully recommend that the Veterans Benefits Administration modernize the “Mother” and “Father” fields on VA Form 21-601 to read “Parent or Parents” to better reflect and serve contemporary American families. We commend the Veterans Benefits Administration and Department of Veterans Affairs for its work, and look forward to the final draft of this form.

We are happy to provide your office with any additional information or clarification that you might need. Please contact Michael Porcello (mporcello@familyequality.org, 202-607-2140) in our Washington, D.C. office with any questions.

Sincerely,



Gabriel Blau
Executive Director
Family Equality Council

⁴ 5 U.S.C § 301; 38 U.S.C. § 501, Rules and Regulations.

⁵ 38 U.S.C. § 1970, Beneficiaries; payment of insurance. 38 C.F.R. § 9.1, Definitions.

⁶ *United States v. Windsor*, 570 U.S. ____ (2013).