

§ 130.23

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HIV must include the documentation described in § 130.21(c).

(3) *The former lawful spouse.* Petitions filed by a survivor of the former lawful spouse with HIV must include the documentation described in § 130.21(d).

(4) *The child.* Petitions filed by a survivor of the child with HIV must include the documentation described in § 130.21(e).

(d) Petitions filed by survivors must include the following information regarding the relationship between the survivor and the person with HIV:

(1) *The surviving spouse.* Petitions filed by the surviving spouse must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A marriage certificate or other proof of a lawful marriage, which shows that the survivor was the spouse, as defined in § 130.11(d)(1), of the person with HIV; and

(iii) A sworn statement signed by the surviving spouse which states that the surviving spouse and the person with HIV were married at the time of that individual's death.

(2) *The surviving child/children.* Petitions filed by the surviving child/children must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A birth certificate, adoption certificate, documentation that shows that the survivor is the stepchild of the person with HIV (for example, a certificate of marriage between the survivor's parent and the person with HIV), or other documentation which shows that the survivor is the child, as defined in § 130.11(d)(2), of the person with HIV; and

(iii) A sworn statement signed by the surviving child/children which either:

(A) States that, to the best of the petitioner's knowledge, there are no other survivors who are eligible for payment under the Act, as described in § 130.11 (*i.e.*, no eligible surviving spouses or other surviving children); or

(B) Provides information regarding other survivors who are eligible for payment under the Act.

(3) *The surviving parent(s).* Petitions filed by the surviving parent(s) must include the following written documentation:

(i) A death certificate for the person with HIV, or other evidence of that individual's death;

(ii) A birth certificate, adoption certificate or other documentation which shows that the survivor is the parent, as defined in § 130.11(d)(3), of the person with HIV; and

(iii) A sworn statement signed by the surviving parent(s) which either:

(A) States that, to the best of the petitioner's knowledge, there are no other survivors who are eligible for payment under the Act, as described in § 130.11 (*i.e.*, no eligible surviving spouse, surviving children or other surviving parents); or

(B) Provides information regarding other survivors who are eligible for payment under the Act.

§ 130.23 What documentation is required for amendments to petitions, which are filed by survivors of persons with HIV?

(a) The following survivors must file amendments to petitions in order to retain the assigned order number described in § 130.32 and to receive payment under the Act:

(1) A survivor of the person with HIV, when the person with HIV has filed a petition under the Act, but then died before receiving payment;

(2) The next-ranked survivor eligible to receive payment under the Act, as described in § 130.11(b), when a previously-ranked survivor has filed a petition or an amendment to a petition as a survivor of the person with HIV, but then died before receiving payment; and

(3) In the case of petitions filed by multiple survivors (*i.e.*, multiple surviving children or multiple surviving parents), where one of the survivors dies before receiving payment, the other survivors must file an amendment in order to notify the Secretary that the payment should be made to, and divided among, only the remaining survivors.

(b) Survivors described in paragraph (a) of this section shall amend the original petition by filing the petition

form set forth at Appendix C to this part, including the section pertaining to amendments to petitions.

(c) Amendments to petitions filed by survivors must include the following documentation:

(1) Survivors described in paragraph (a)(1) of this section must include the documentation described in §130.22(d), which shows that the survivor is eligible to file a petition as a survivor of the person with HIV.

(2) Survivors described in paragraph (a)(2) of this section must include:

(i) The documentation described in §130.22(d), which shows that the survivor is eligible to file a petition as a survivor of the person with HIV; and

(ii) A death certificate for the survivor whose petition is being amended, or other evidence of that survivor's death.

(3) Survivors described in paragraph (a)(3) of this section must include a death certificate for the survivor who has died, or other evidence of that survivor's death.

(d) Amendments to petitions filed by survivors described in paragraph (a) of this section will retain the same order number assigned to the original petition.

(e) In those cases in which the Secretary has reviewed the original petition prior to receiving an amendment to the petition, the Secretary will determine whether to pay the survivors described in paragraph (a) as follows:

(1) If the Secretary has determined that the original petition does not include all of the documentation described in this Subpart C (*i.e.*, it is incomplete), the survivor will be given the opportunity to complete the petition prior to a final determination in accordance with the procedures set forth at §130.33.

(2) If the Secretary has determined that the original petition does not meet the requirements of the Act, the survivor will be so notified and payment will not be made. The survivor may seek reconsideration under §130.40.

(3) If the Secretary has determined that the original petition meets the requirements of the Act, and the survivor meets the survivor requirements of the

Act, the survivor will receive payment as described in §130.3.

(f) In those cases in which the Secretary has not yet made the determination whether the original petition meets the requirements of the Act, the Secretary will review the amended petition according to the order number assigned to the original petition, and then determine whether the petition is complete and whether to pay the petition as described in paragraph (e) of this section.

Subpart D—Procedures for Filing and Paying Complete Petitions

§130.30 Who may file a petition for payment or an amendment to a petition?

The following individuals may file a petition for payment under the Act:

(a) All eligible individuals, as described in subpart B of this part, including living persons with HIV and survivors of persons with HIV; and

(b) Personal representatives of eligible individuals:

(1) Where the eligible individual does not have the legal capacity to receive payment under the Act, as described in §130.35(e); or

(2) Where the eligible individual does have the legal capacity to receive payment under the Act and signs the sworn statement included at the end of the petition.

§130.31 How and when is a petition for payment filed?

(a) In order to receive payment under the Act, all eligible individuals, as described in subpart B of this part, must file a complete petition with the Secretary. A complete petition is one that contains all of the required documentation described in Subpart C of this part.

(b) A copy of the petition form, which must be filed by all eligible individuals, including individuals with a blood-clotting disorder and HIV, the lawful spouse with HIV, the former lawful spouse with HIV, the child with HIV, and the survivors of persons with HIV, is set forth at Appendix C to this part. Appendix C includes the petition