§ 3.252 Annual income; pension; Mexican border period and later war periods.

(a) Annual income limitations; old-law pension. Where the right to old-law pension is payable under section 306(b) of Pub. L. 95–588 (92 Stat. 2497), pension is not payable if the pensioner’s annual income exceeds the income limitations prescribed by §3.26(c).

(b) Annual income and net worth limitations; Pub. L. 86–211. Pension is not payable to a veteran, surviving spouse or child whose annual income exceeds the limitations set forth in 38 U.S.C. 1521, 1541 or 1542; or to a veteran, surviving spouse or child if it is reasonable that some part of the claimant’s estate be consumed for his or her maintenance. Where a veteran and spouse are living together, the separate income of the spouse will be considered as the veteran’s income as provided in §3.262(b).


(c) Basic rule. Payments of any kind or from any source will be counted as income unless specifically excluded. Income will be counted for the calendar year in which it is received and total income for the full calendar year will be considered except as provided in §3.260.

(d) Veteran with a spouse. For the purpose of determining eligibility under paragraph (b) of this section the pension rates provided by 38 U.S.C. 1521(c) may be authorized for a married veteran if he or she is living with or, if estranged, is reasonably contributing to the support of his or her spouse. The determination of “reasonable” contribution will be based on all the circumstances in the case, considering the income and estate of the veteran and the separate income and estate of the spouse. Apportionment of the veteran’s pension under §3.451 meets the requirement of reasonable contribution.

(e) Surviving spouse with a child—(1) Child. The term “child” means a child as defined in §3.57. Where a veteran’s child is born after the veteran dies, the surviving spouse will not be considered a surviving spouse with a child prior to the child’s date of birth.

(2) Veteran’s child not in surviving spouse’s custody. Where the veteran was survived by a surviving spouse and by a child, the income increments for a surviving spouse and child apply even though the child is not the child of the surviving spouse and not in his or her custody.

(f) Alternative rate. Whenever the monthly pension rate payable to the surviving spouse under the formula in 38 U.S.C. 1541(c) is less than the rate payable for one child under section 1542 if the surviving spouse were not entitled, the surviving spouse will be paid the child’s rate.

(g) Income over maximum; reduced aid and attendance allowance. Beginning January 1, 1977, veterans in need of regular aid and attendance who are not receiving pension because their income exceeds the applicable statutory limitation may be eligible for a reduced aid and attendance allowance. The amount payable is the regular aid and attendance allowance authorized by 38 U.S.C. 1521(d)(1) reduced by 16.6 percent for each $100, or portion thereof, by which the veteran’s annual income exceeds the applicable maximum income limitation.

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§ 3.260 Computation of income.

For entitlement to pension or dependency and indemnity compensation, income will be counted for the calendar year in which it is received.

(a) Installments. Income will be determined by the total amount received or anticipated during the calendar year.