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(4) 38 U.S.C. chapters 30, 32, 33, 34, 35, and 36;
(5) 10 U.S.C. chapters 106a, 1606, and 1607;
(6) Section 903 of the Department of Defense Authorization Act, 1981,
(7) The Hostage Relief Act of 1980, and

(Authority: 10 U.S.C. 16136(b), 16166(b); 38 U.S.C. 3034(a), 3241(a), 3323(a), 3695(a))

(b) Limit on combining assistance received under Chapter 31 with assistance under another program. No person may receive assistance under Chapter 31, Title 38 U.S.C. in combination with any provisions of law listed in paragraph (a) of this section in excess of 48 months (or the part-time equivalent) unless the Department of Veterans Affairs determines that additional months of benefits under Chapter 31 are necessary to accomplish the purpose of the veteran’s rehabilitation program.

(Authority: 10 U.S.C. 16136(b), 16166(b); 38 U.S.C. 3034(a), 3241(a), 3323(a), 3695(b))


§ 21.4022 Nonduplication—programs administered by VA.

A veteran, reservist, or eligible individual, who is eligible for educational assistance allowance or subsistence allowance under more than one of the provisions of law listed in this section, whether based on his or her own service or the service of another person, cannot receive such benefits concurrently. The individual must choose under which program he or she will receive benefits for the particular period(s) during which education or training is to be pursued. The individual may choose to receive benefits under another program (other than 38 U.S.C. chapter 33) at any time, but not more than once in a calendar month. The individual may choose to receive benefits under 38 U.S.C. chapter 33 at any time, but not more than once during a certified term, quarter, or semester.

(a) 38 U.S.C. 30 (Montgomery GI Bill—Active Duty);
(b) 38 U.S.C. 31 (Vocational Rehabilitation and Employment Program);
(c) 38 U.S.C. 32 (Post-Vietnam Era Veterans’ Educational Assistance);
(d) 38 U.S.C. 33 (Post-9/11 GI Bill);
(e) 38 U.S.C. 35 (Survivors’ and Dependents’ Educational Assistance);
(f) 10 U.S.C. 1606 (Montgomery GI Bill—Selected Reserve);
(g) 10 U.S.C. 1607 (Reserve Educational Assistance Program);
(h) 10 U.S.C. 106a (Educational Assistance Test Program);

(Authority: 10 U.S.C. 16136(b), 16166(b); 38 U.S.C. 3322, 3681)

(74 FR 14666, Mar. 31, 2009)

PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

§ 21.4131 Commencing dates.

VA will determine under this section the commencing date of an award or increased award of educational assistance provided pursuant to subpart C or G. When more than one paragraph in this section applies, VA will award educational assistance using the latest of the applicable commencing dates.

(a) Entrance or reentrance including change of program or educational institution; individual eligible under 38 U.S.C. chapter 32. When an eligible veteran or servicemember enters or reenters training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) For other than licensing or certification tests. (1) If the award is the first award of educational assistance for the program of education the veteran or servicemember is pursuing, the commencing date of the award of educational assistance is the latest of:
(A) The date the educational institution certifies under paragraph (b) or (c) of this section;
(B) One year before the date of claim as determined by §21.1029(b);
(C) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later; or
(ii) If the award is the second or subsequent award of educational assistance for the program of education the veteran or servicemember is pursuing, the effective date of the award of educational assistance is the later of—
(A) The date the educational institution certifies under paragraph (b) or (c) of this section; or
(B) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(2) For licensing or certification tests. VA will award educational assistance for the cost of a licensing or certification test only when the veteran or servicemember takes such test—
(i) While the test is approved under 38 U.S.C. chapter 36;
(ii) While the veteran or servicemember is eligible for educational assistance under subpart G; and
(iii) No more than one year before the date VA receives a claim for reimbursement of the cost of the test.

(Authority: 38 U.S.C. 3672, 3689, 5110, 5113)

(b) Certification by school—the course or subject leads to a standard college degree. (1) When the student enrolls in a course offered by independent study, the commencing date of the award or increased award of educational assistance will be the date the student began pursuit of the course according to the regularly established practices of the educational institution.

(2) Except as provided in paragraphs (b)(3), (b)(4) and (b)(5) of this section when a student enrolls in a resident course or subject, the commencing date of the award or increased award of educational assistance will be the first scheduled date of classes for the term, quarter or semester in which the student is enrolled.

(3) When the student enrolls in a resident course or subject whose first scheduled class begins after the calendar week when, according to the school’s academic calendar, classes are scheduled to commence for the term, quarter, or semester, the commencing date of the award or increased award of educational assistance allowance will be the actual date of the first class scheduled for that particular course or subject.

(4) When a student enrolls in a resident course or subject, the commencing date of the award will be the date the student reports to the school provided that—
(i) The published standards of the school require the student to register before reporting, and
(ii) The published standards of the school require the student to report no more than 14 days before the first scheduled date of classes for the term, quarter or semester for which the student has registered, and no later than the first scheduled date of classes for the term, quarter or semester for which the student has registered.

(5) When the student enrolls in a resident course or subject and the first day of classes is more than 14 days after the date of registration, the commencing date of the award or increased award of educational assistance will be the first day of classes.

(Authority: 38 U.S.C. 3481(a), 3680(a); Pub. L. 98–525)

(c) Certification by school or establishment—course does not lead to a standard college degree. (1) Residence school: See paragraph (b) of this section.

(2) Correspondence school: Date first lesson sent or date of affirmance whichever is later.

(3) Job training: First date of employment in training position.

(Authority: 38 U.S.C. 3481, 3687)

(d) Entrance or reentrance including change of program or educational institution; individual eligible under 38 U.S.C. chapter 35. When a person eligible to receive educational assistance under 38 U.S.C. chapter 35 enters or reenters into training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

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(1) For other than licensing or certification tests. (i) If the award is the first award of educational assistance for the program of education the eligible person is pursuing, the commencing date of the award of educational assistance is the latest of:
   (A) The beginning date of eligibility as determined under §21.3041 or under §21.3046(a) or (b), whichever is applicable;
   (B) One year before the date of claim as determined by §21.1029(b);
   (C) The date the educational institution certifies under paragraph (b) or (c) of this section;
   (D) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later; or
   (ii) If the award is the second or subsequent award of educational assistance for that program, the effective date of the award of educational assistance is the later of—
   (A) The date the educational institution certifies under paragraph (b) or (c) of this section; or
   (B) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(2) For licensing or certification tests. VA will award educational assistance for the cost of a licensing or certification test only when the eligible person takes such test—
   (i) While the test is approved under 38 U.S.C. chapter 36;
   (ii) While he or she is eligible for educational assistance under subpart C; and
   (iii) No more than one year before the date VA receives a claim for reimbursement of the cost of the test.

(1) The eligibility date is more than 1 year before the date of the initial rating decision that establishes either:
   (i) The veteran’s death is service-connected, or
   (ii) The veteran has a P&T disability;
(2) The eligible person files his or her original application for benefits under 38 U.S.C. chapter 35 with VA within 1 year of the initial rating decision;
(3) The eligible person claims educational assistance for pursuit of an approved program of education for a period that is more than 1 year before the date VA receives his or her original claim;
(4) VA either:
   (i) Received the original application on or after November 1, 2000; or
   (ii) Received the original application and, as of November 1, 2000, either—
      (A) Had not acted on it; or
      (B) Had denied it in whole or in part, but the claimant remained entitled to pursue available administrative and judicial remedies as to the denial; and
(5) The eligible person would have been eligible to educational assistance under 38 U.S.C. chapter 35 if he or she had filed a claim on his or her eligibility date.
§ 21.4135  Discontinuance dates.

The effective date of reduction or discontinuance of educational assistance allowance will be as specified in this section. If more than one type of reduction or discontinuance is involved, the earliest date will control.

(a) Death of veteran or eligible person.
(1) If the veteran or eligible person receives an advance payment pursuant to 38 U.S.C. 3680(d) and dies before the period covered by the advance payment ends, the discontinuance date of educational assistance shall be the last date of the period covered by the advance payment.
(2) In all other cases if the veteran or eligible person dies while pursuing a program of education, the discontinuance date of educational assistance shall be the last date of attendance.

(b) Election to receive educational assistance under the Montgomery GI Bill—Active Duty. If a veteran makes a valid election, as provided in §21.7045(d), to receive educational assistance under the Montgomery GI Bill—Active Duty in lieu of educational assistance under the Post-Vietnam Era Veterans’ Educational Assistance Program, the discontinuance date of educational assistance under the Post-Vietnam Era Veterans’ Educational Assistance Program shall be the date on which the election was made pursuant to procedures described in §21.7045(d)(2).

(c)–(d) [Reserved]

(e) Course discontinued; course interrupted; course not satisfactorily completed or withdrawn from.
(1) If the individual receives all non-punitive grades, or withdraws from all courses other than because of being ordered to active duty, and no mitigating circumstances are found, VA will terminate the individual’s educational assistance allowance effective the first date of the term in which the withdrawal occurs.
(2) If the individual withdraws from all other courses other than courses in paragraph (e)(3) of this section and with mitigating circumstances, or withdraws from all courses such that a punitive grade is or will be assigned for those courses:
   (i) Residence training: Last date of attendance.
   (ii) Independent study: Official date of change in status under the practices of the institution.
   (3) If the individual withdraws from correspondence, flight, farm cooperative, cooperative or job training, benefits will be terminated effective:
      (i) Correspondence training: Date last lesson is serviced.
      (ii) Flight training: Date of last instruction.
      (iii) Job training: Date of last training;
      (iv) Farm cooperative training: Date of last class attendance.