reduced by the amount of the countable annual income of the veteran or surviving spouse.

(Authority: 38 U.S.C. 1521, 1541)

(c) Mexican border period and World War I veterans. The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this section shall be increased by the amount specified in 38 U.S.C. 1521(g), as increased from time to time under 38 U.S.C. 5312. Each time there is an increase under 38 U.S.C. 5312, the actual rate will be published in the “Notices” section of the Federal Register.

(Authority: 38 U.S.C. 1521(g))

(d) Definitions of terms used in this section—(1) Dependent. A veteran’s spouse or child. A veteran’s spouse who resides apart from the veteran and is estranged from the veteran may not be considered the veteran’s dependent unless the spouse receives reasonable support contributions from the veteran. (Note that under §3.60 a veteran and spouse who reside apart are considered to be living together unless they are estranged.) A child of a veteran not in custody of the veteran and to whose support the veteran is not reasonably contributing, may not be considered the veteran’s dependent.

(Authority: 38 U.S.C. 1521(b))

(2) In need of aid and attendance. As defined in §3.351(b).

(3) Housebound. As defined in §3.351(d)(2), (f). This term also includes a veteran who has a disability or disabilities evaluated as 60 percent or more disabling in addition to a permanent and totally disabling condition. See §3.351(d)(1).

(4) Veteran’s annual income. This term includes the veteran’s annual income, the annual income of the veteran’s dependent spouse, and the annual income of each child of the veteran (other than a child for whom increased pension is not payable under 38 U.S.C. 1522(b)) in the veteran’s custody or to whose support the veteran is reasonably contributing (to the extent such child’s income is reasonably available to or for the veteran, unless in the judgment of the Department of Veterans Affairs to do so would work a hardship on the veteran.) There is a rebuttable presumption that all of such a child’s income is reasonably available to or for the veteran.

(Authority: 38 U.S.C. 1521 (c), (h))

(5) Surviving spouse’s annual income. This term includes the surviving spouse’s annual income and the annual income of each child of the veteran (other than a child for whom increased pension is not payable under 38 U.S.C. 1543(a)(2)) in the custody of the surviving spouse to the extent that such child’s income is reasonably available to or for the surviving spouse, unless in the judgment of the Department of Veterans Affairs to do so would work a hardship on the surviving spouse. There is a rebuttable presumption that all of such a child’s income is available to or for the surviving spouse.

(Authority: 38 U.S.C. 1541(c), (g))

(6) Reasonable availability and hardship. For the purposes of paragraphs (d)(4) and (d)(5) of this section, a child’s income shall be considered “reasonably available” when it can be readily applied to meet the veteran’s or surviving spouse’s expenses necessary for reasonable family maintenance, and “hardship” shall be held to exist when annual expenses necessary for reasonable family maintenance exceed the sum of countable annual income plus VA pension entitlement. Expenses necessary for reasonable family maintenance include expenses for basic necessities (such as food, clothing, shelter, etc.) and other expenses, determined on a case-by-case basis, which are necessary to support a reasonable quality of life.

(Authority: 38 U.S.C. 501)

Cross References: Improved pension. See §3.1(w). Child. See §3.57(d). Definition of living with. See §3.60. Exclusions from income. See §3.272.


§ 3.24 Improved pension rates—Surviving children.

(a) General. The provisions of this section apply to children of a deceased
§ 3.25 Parent's dependency and indemnity compensation (DIC)—Method of payment computation.

Monthly payments of parents' DIC shall be computed in accordance with the following formulas:

(a) One parent. Except as provided in paragraph (b) of this section, if there is only one parent, the monthly rate specified in 38 U.S.C. 1315(b)(1), as increased from time to time under 38 U.S.C. 5312, reduced by $.08 for each dollar of such parent's countable annual income in excess of $800. No payments of DIC may be made under this paragraph, however, if such parent's countable annual income exceeds the amount specified in 38 U.S.C. 1315(b)(3), as increased from time to time under 38 U.S.C. 5312, and no payment of DIC to a parent under this paragraph may be less than $5 a month.

(b) One parent who has remarried. If there is only one parent and the parent has remarried and is living with the parent's spouse, DIC shall be paid under paragraph (a) or paragraph (d) of this section, whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's...