Department of Veterans Affairs § 3.660

§ 3.660 Dependency, income and estate.

(a) Reduction or discontinuance—(1) General. A veteran, surviving spouse or child who is receiving pension, or a parent who is receiving compensation or dependency and indemnity compensation must notify the Department of Veterans Affairs of any material change or expected change in his or her income or other circumstances which would affect his or her entitlement to receive, or the rate of, the benefit being paid. Such notice must be furnished when the recipient acquires knowledge that he or she will begin to receive additional income or when his or her marital or dependency status changes. In pension claims subject to § 3.252(b) or § 3.274 and in compensation claims subject to § 3.250(a)(2), notice must be furnished of any material increase in corpus of the estate or net worth.

(2) Effective dates. Where reduction or discontinuance of a running award of section 306 pension or old-law pension is required because dependency of another person ceased due to marriage, annulment, divorce or death, or because of an increase in income, which increase could not reasonably have been anticipated based on the amount actually received from that source the year before, the reduction or discontinuance shall be made effective the end of the year in which the increase occurred. Where reduction or discontinuance of a running award of improved pension or dependency and indemnity compensation is required because of an increase in income, the reduction or discontinuance shall be made effective the end of the month in which the increase occurred. Where reduction or discontinuance of a running award of any benefit is required because of an increase in net worth or corpus of estate, because dependency of a parent ceased, or because dependency of another person ceased prior to October 1, 1982, due to marriage, annulment, divorce, or death, the award shall be reduced or discontinued effective the last day of the calendar year in which the increase occurred or dependency ceased. Except as noted in this subparagraph for section 306 or old-law pension, where the dependency of another person ceased on or after October 1, 1982, due to marriage, annulment, divorce or death, the reduction or discontinuance shall be effective the last day of the month in which dependency ceased.

(3) Overpayments. Overpayments created by retroactive discontinuance of benefits will be subject to recovery if not waived. Where dependency and indemnity compensation was being paid to two parents living together, an overpayment will be established on the award to each parent.

(b) Award or increase; income. Where pension or dependency and indemnity compensation was not paid for a particular 12-month annualization period because the claim was disallowed, an award was deferred under § 3.260(b) or § 3.271(f), payments were discontinued or made at a lower rate based on anticipated or actual income, benefits otherwise payable may be authorized commencing the first of a 12-month annualization period as provided in this paragraph. In all other cases, benefits may not be authorized for any period prior to the date of receipt of a new claim.


§ 3.661 Eligibility Verification Reports.

(a) Determination and entitlement. (1) Where the report shows a change in income, net worth, marital status, status of dependents or change in circumstances affecting the application of the net worth provisions, the award will be adjusted in accordance with § 3.660(a)(2).

(2) Where there is doubt as to the extent of anticipated income payment of pension or dependency and indemnity compensation will be authorized at the lowest appropriate rate or will be withheld, as provided in § 3.260(b) or § 3.271(f).

(b) Failure to return report—(1) Section 306 and old-law pension—(i) Discontinuance. Discontinuance of old-law or section 306 pension shall be effective the last day of the calendar year for which income (and net worth in a section 306 pension case) was to be reported.

(ii) Resumption of benefits. Payment of old-law or section 306 pension may be resumed, if otherwise in order, from the date of last payment if evidence of entitlement is received within the calendar year following the calendar year for which income (and net worth in a section 306 pension case) was to be reported; otherwise pension may not be paid for any period prior to the date of receipt of a new claim.

(2) Improved pension and dependency and indemnity compensation—(i) Discontinuance. Discontinuance of dependency and indemnity compensation (DIC) or improved pension shall be effective the first day of the 12-month annualization period for which income (and net worth in an improved pension case) was to be reported; otherwise pension may not be paid for any period prior to the date of receipt of a new claim.

(ii) Adjustment of overpayment. If evidence of entitlement to improved pension or DIC for any period for which payment of improved pension or DIC was discontinued for failure to file an Eligibility Verification Report is received at any time, payment of improved pension or DIC shall be awarded for any period prior to the date of receipt of a new claim.