

4. In § 3.301(c), revise the heading to read as follows: “*Specific applications; willful misconduct.*”

5. In § 3.301(c)(3), after the third sentence, add a new sentence in parenthesis to read as follows: “(See paragraph (d) of this section regarding service connection where disability or death is a result of abuse of drugs.)”; and in the fourth sentence, remove the words “Similarly, where” and add, in their place, the word “Where”.

6. In § 3.301, add a new paragraph (d) and an authority citation to read as follows:

§ 3.301 Line of duty and misconduct.

* * * * *

(d) *Line of duty; abuse of alcohol or drugs.* An injury or disease incurred during active military, naval, or air service shall not be deemed to have been incurred in line of duty if such injury or disease was a result of the abuse of alcohol or drugs by the person on whose service benefits are claimed. For the purpose of this paragraph, alcohol abuse means the use of alcoholic beverages over time, or such excessive use at any one time, sufficient to cause disability to or death of the user; drug abuse means the use of illegal drugs (including prescription drugs that are illegally or illicitly obtained), the intentional use of prescription or non-prescription drugs for a purpose other than the medically intended use, or the use of substances other than alcohol to enjoy their intoxicating effects.

(Authority: 38 U.S.C. 105(a))

[FR Doc. 95-12644 Filed 5-23-95; 8:45 am]

BILLING CODE 8320-01-P

38 CFR Part 3

RIN 2900-AH38

Examinations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations to reflect a statutory change which authorizes VA to accept the report of a private physician’s examination that is otherwise adequate for rating purposes to establish entitlement to compensation or pension benefits.

EFFECTIVE DATE: This amendment is effective November 2, 1994, the date that Public Law 103-446, the Veterans’ Benefits Improvements Act of 1994, became effective.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Regulations

Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, telephone (202) 273-7210.

SUPPLEMENTARY INFORMATION: On November 2, 1994, the Veterans’ Benefits Improvements Act of 1994 was signed into law. Section 301 of that statute created 38 U.S.C. 5125, which authorizes the Secretary of Veterans Affairs to accept the report of a private physician’s examination that is otherwise adequate for rating purposes to establish entitlement to compensation or pension benefits. This document amends 38 CFR 3.157, 3.326, 3.327, and 3.352 in order to reflect that statutory authority.

38 CFR 3.157(b)(2) is amended to remove the requirement that a private physician’s statement be confirmed by a VA examination prior to granting service connection for a disability. 38 CFR 3.326(d) is amended to show that a private physician’s statement may be accepted for rating any compensation or pension claim as long as it is adequate for rating purposes. 38 CFR 3.327(b)(1) is amended to remove the requirement that at least one VA examination be made in every case in which compensation benefits are awarded. 38 CFR 3.352(b)(1) is amended to remove the requirement that a veteran’s need for the special aid and attendance benefit under 38 U.S.C. 1114(r) must be determined by a Department of Veterans Affairs physician.

Administrative Procedure Act

This final rule amends VA regulations merely to reflect statutory provisions. Accordingly, there is a basis for dispensing with prior notice and comment and for dispensing with a 30-day delay of the effective date.

Regulatory Flexibility Act

This final rule will not have a significant economic impact on a substantial number of small entities since it merely reflects a statutory change.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: May 17, 1995.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.157 [Amended]

2. In § 3.157, the last sentence in paragraph (b)(2) is removed.

3. In § 3.326, paragraph (d) is revised to read as follows:

§ 3.326 Examinations.

* * * * *

(d) A statement from a private physician that includes clinical manifestations and substantiation of diagnosis by findings of diagnostic techniques generally accepted by medical authorities, such as pathological studies, X-rays, and laboratory tests as appropriate, may be accepted for rating any claim without further examination, provided it is otherwise adequate for rating purposes.

(Authority: 38 U.S.C. 5125)

§ 3.327 [Amended]

4. In § 3.327, the first two sentences in paragraph (b)(1) are removed.

§ 3.352 [Amended]

5. In § 3.352, paragraph (b)(1)(iv) is removed.

[FR Doc. 95-12707 Filed 5-23-95; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Ky-83-6927a; FRL-5184-7]

Approval and Promulgation of Implementation Plans State: Kentucky Approval of Revisions to State Implementation Plan (SIP)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the state implementation plan (SIP) submitted by the Commonwealth of Kentucky through the Natural Resources