

Department of Veterans Affairs

§ 3.109

the laws administered by the Department of Veterans Affairs may renounce his or her right to that benefit but may not renounce less than all of the component items which together comprise the total amount of the benefit to which the person is entitled nor any fixed monetary amounts less than the full amount of entitlement. The renouncement will be in writing over the person's signature. Upon receipt of such renouncement in the Department of Veterans Affairs, payment of such benefits and the right thereto will be terminated, and such person will be denied any and all rights thereto from such filing.

(Authority: 38 U.S.C. 5306(a))

(b) The renouncement will not preclude the person from filing a new application for pension, compensation, or dependency and indemnity compensation at any future date. Such new application will be treated as an original application, and no payments will be made thereon for any period before the date such new application is received in the Department of Veterans Affairs.

(Authority: 38 U.S.C. 5306(b))

(c) Notwithstanding the provisions of paragraph (b) of this section, if a new application for pension or parents' dependency and indemnity compensation is filed within one year after the date that the Department of Veterans Affairs receives a renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.

(Authority: 38 U.S.C. 5306(c))

(d) The renouncement of dependency and indemnity compensation by one beneficiary will not serve to increase the rate payable to any other beneficiary in the same class.

(e) The renouncement of dependency and indemnity compensation by a surviving spouse will not serve to vest title to this benefit in children under the age of 18 years or to increase the

rate payable to a child or children over the age of 18 years.

[26 FR 1569, Feb. 24, 1961, as amended at 37 FR 5384, Mar. 15, 1972; 39 FR 17222, May 14, 1974; 60 FR 18355, Apr. 11, 1995; 62 FR 5529, Feb. 6, 1997]

§ 3.107 Awards where not all dependents apply.

Except as provided in § 3.251(a)(4), in any case where claim has not been filed by or on behalf of all dependents who may be entitled, the awards (original or amended) for those dependents who have filed claim will be made for all periods at the rates and in the same manner as though there were no other dependents. However, if the file reflects the existence of other dependents who have not filed claim and there is potential entitlement to benefits for a period prior to the date of filing claim, the award to a person who has filed claim will be made at the rate which would be payable if all dependents were receiving benefits. If at the expiration of the period allowed, claims have not been filed for such dependents, the full rate will be authorized for the first payee.

[29 FR 9564, July 15, 1964]

§ 3.108 State Department as agent of Department of Veterans Affairs.

Diplomatic and consular officers of the Department of State are authorized to act as agents of the Department of Veterans Affairs and therefore a complete claim as set forth in § 3.160(a) or an intent to file a claim as set forth in § 3.155(b) or evidence submitted in support of a claim filed in a foreign country will be considered as filed in the Department of Veterans Affairs as of the date of receipt by the State Department representative.

CROSS REFERENCE: Evidence from foreign countries. See § 3.202.

[26 FR 1569, Feb. 24, 1961, as amended at 79 FR 57695, Sept. 25, 2014]

§ 3.109 Time limit.

(a) *Notice of time limit for filing evidence.* (1) If a claimant's application is incomplete, the claimant will be notified of the evidence necessary to complete the application. If the evidence is not received within 1 year from the