Panel will be held in Brooklyn, New York.

DATES: The meeting will be held Friday, February 25, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Friday, February 25, 2000, 6:00 p.m. to 9:00 p.m. at the Internal Revenue Service Brooklyn Building located at 625 Fulton Street, Brooklyn, NY 11201. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 8:30 p.m. to 9:00 p.m. on Friday Feb. 25, 2000. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY, 11201. The Agenda will include the following: various IRS issues. Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 29, 2000.

John J. Mannion,

Program Manager, Taxpayer Advocate Service.

[FR Doc. 00–2732 Filed 2–7–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of Citizen Advocacy Panel, South Florida District

AGENCY: Internal Revenue Service.

ACTION: Notice.

SUMMARY: A public meeting of the South Florida District Citizen Advocacy Panel will be held in Fort Myers, Florida.

DATES: The meeting will be held Saturday, February 26, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227 or 954–423–7974.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a Public meeting of the Citizen Advocacy Panel will be held Saturday, February 26, 2000, 9:00 a.m. to Noon at the Edison Community College, Learning Resource Building, J–103 Corbin Auditorium, 8099 College Parkway SW, Fort Myers, FL 33919.

For more information contact Nancy Ferree at 1–888–912–1227 or 954–423–7974. The public is invited to make oral comments. Individual comments will be limited to 10 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–423–7974, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd #225, Sunrise, FL 33351. The Agenda will include the following: various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 29, 2000.

John J. Mannion,

Program Manager, Taxpayer Advocate Service.

[FR Doc. 00–2733 Filed 2–7–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Citizen Advocacy Panel, Brooklyn District

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Brooklyn District Citizen Advocacy Panel will be held in Uniondale, New York.

DATES: The meeting will be held Thursday, March 2, 2000.

FOR FURTHER INFORMATION CONTACT: Eileen Cain at 1–888–912–1227 or 718–488–3555.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an operational meeting of the Citizen Advocacy Panel will be held Thursday, March 2, 2000, 7:30 p.m. to 9:30 p.m. at the Long Island Marriott Hotel at 101 James Doolittle Boulevard 9, Uniondale, NY 11553. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Eileen Cain. Mrs. Cain can be reached at 1–888–912–1227 or 718–488–3555. The public is invited to make oral comments from 7:30 p.m. to 9:30 p.m. on Thursday, March 2, 2000. Individual comments will be limited to 5 minutes. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 718–488–3555, or write Eileen Cain, CAP Office, P.O. Box R, Brooklyn, NY 11202. The Agenda will include the following: introductions of the panel and open discussions with the public.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: January 29, 2000.

John J. Mannion,

Program Manager, Taxpayer Advocate Service.

[FR Doc. 00–2734 Filed 2–7–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to

assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 11–99

Question Presented

a. To the extent that provisions in the Veterans Benefits Administration (VBA) (formerly Department of Veterans Benefits) Adjudication Procedures Manual M21–1 extant in 1964 purported to constitute an absolute bar to service connection for retinitis pigmentosa, were such provisions a valid exercise of regulatory authority?

b. To the extent that provisions in VBA Manual M21–1 extant in 1964 created a valid limitation on the grant of service connection for retinitis pigmentosa, did such a limitation bar service connection for the in-service aggravation of preexisting retinitis pigmentosa?

c. If there was no previous bar to the award of service connection for retinitis pigmentosa, what statutory and regulatory provisions are for consideration in determining the effective date for the award of service connection for retinitis pigmentosa in the case giving rise to this opinion request?

d. If the award of service connection for retinitis pigmentosa was barred at the time of a claimant's application for benefits, does the application of 38 U.S.C. § 5110(g) and 38 CFR § 3.114(a) permit assignment of an effective date based on the effective date of Op. G.C. 1–85 (reissued as VAOPGCPREC 82–90); Op. G.C. 8–88 (reissued as VAOPGCPREC 67–90) or a 1986 revision to VBA Manual M21–1?

Held

a. The provisions in paragraph 50.05 of chapter 50 of the Veterans Benefits Administration (VBA) (formerly Department of Veterans Benefits) Adjudication Procedures Manual M21–1 extant in 1964 did not purport to bar service connection for the in-service aggravation of preexisting retinitis pigmentosa.

b. The effective date of the award of compensation for retinitis pigmentosa in the case giving rise to the opinion request is governed by the generally-applicable provisions of 38 U.S.C. § 5110(a), unless the Board determines, based on its review of the record, that another provision in chapter 51 of title 38, United States Code, is applicable to that effective-date determination.

c. Because the statutes and regulations existing at the time of the veteran's claim for benefits permitted an award of service connection for in-service aggravation of retinitis pigmentosa, subsequent Department of Veterans Affairs General Counsel opinions and changes to VBA Manual M21–1 cannot be considered ''liberalizing'' changes which created the right to such benefits. Accordingly, the effective dates of those documents do not govern the effective date of the veteran's award under 38 U.S.C. § 5110(g) and 38 CFR § 3.114(a).

Effective Date: September 2, 1999.

VAOPGCPREC 12–99

Question Presented

a. What is the definition of the phrase ''engaged in combat with the enemy,'' as used in 38 U.S.C. § 1154(b)?

b. What evidence is considered satisfactory proof that a veteran engaged in combat with the enemy?

c. Besides recognized military citations, what other supportive evidence may be used to support a determination that a veteran engaged in combat with the enemy?

d. Is a statement in service personnel records indicating that a veteran participated in certain military campaigns or operations—such as ''participated in operations against Viet Cong, Chu Lai, South Vietnam'' during a specified time period—sufficient in itself to establish engagement in combat, or is further evidence of actual or threatened exposure to hostile fire or some other similar type of event or threat required?

e. How does the benefit-of-the-doubt rule under 38 U.S.C. § 5107(b) apply in determining whether a veteran engaged in combat with the enemy for purposes of 38 U.S.C. § 1154(b)?

Held

a. The ordinary meaning of the phrase ''engaged in combat with the enemy,'' as used in 38 U.S.C. § 1154(b), requires that a veteran have participated in events constituting an actual fight or encounter with a military foe or hostile unit or instrumentality. Nothing in the language or history of that statute or any Department of Veterans Affairs (VA) regulation suggests a more specific definition. The issue of whether any particular set of circumstances constitutes engagement in combat with the enemy for purposes of section 1154(b) must be resolved on a case-by-case basis. VA may issue regulations clarifying the types of activities that will be considered to fall within the scope of the term.

b. The determination as to what evidence may be satisfactory proof that a veteran ''engaged in combat with the enemy'' necessarily depends on the facts of each case. Determining whether evidence establishes that a veteran engaged in combat with the enemy requires evaluation of all pertinent evidence in each case, and assessment of the credibility, probative value, and relative weight of the evidence.

c. There is no statutory or regulatory limitation on the types of evidence that may be used in any case to support a finding that a veteran engaged in combat with the enemy. Accordingly, any evidence which is probative of that fact may be used by a veteran to support an assertion that the veteran engaged in combat with the enemy, and VA must consider any such evidence in connection with all other pertinent evidence of record.

d. Whether a particular statement in service-department records indicating that the veteran participated in a particular ''operation'' or ''campaign'' is sufficient to establish that the veteran engaged in combat with the enemy depends upon the language and context of the records in each case. As a general matter, evidence of participation in an ''operation'' or ''campaign'' often would not, in itself, establish that a veteran engaged in combat, because those terms ordinarily may encompass both combat and non-combat activities. However, there may be circumstances in which the context of a particular service-department record indicates that reference to a particular operation or campaign reflects engagement in combat. Further, evidence of participation in a particular ''operation'' or ''campaign'' must be considered by VA in relation to other evidence of record, even if it does not, in itself, conclusively establish engagement in combat with the enemy.

e. The benefit-of-the-doubt rule in 38 U.S.C. § 5107(b) applies to determinations of whether a veteran engaged in combat with the enemy for purposes of 38 U.S.C. § 1154(b) in the same manner as it applies to any other determination material to resolution of a claim for VA benefits. VA must evaluate the credibility and probative value of all pertinent evidence of record and determine whether there is an approximate balance of positive and negative evidence or whether the evidence preponderates either for or against a finding that the veteran engaged in combat. If there is an approximate balance of positive and negative evidence, the issue must be resolved in the veteran's favor.

Effective Date: October 18, 1999.

VAOPGCPREC 13–99

Question Presented

1. Does a liberalizing precedent opinion of General Counsel have the effect of overruling previous final decisions of the VA agency of jurisdiction?

2. If the answer is affirmative, is VA obligated to award retroactive educational assistance benefits based on new evidence received in support of a claim finally denied before the liberalizing General Counsel opinion was issued?

3. May VA pay benefits under the Montgomery GI Bill (MGIB) when no claim was filed by the veteran, but proof of enrollment in qualifying training is submitted by or on behalf of the veteran?

Held

1. A precedent VA General Counsel opinion that invalidates or liberalizes an existing regulatory or statutory interpretation may have retroactive effect in regard to a claim still open on direct review, but can have no such effect on a finally adjudicated agency decision.

2. In view of the preceding conclusion, it is unnecessary to address the second inquiry.

3. Under the facts given, potentially the earliest indication of the veteran's intent to claim benefits for education he pursued in 1995 would be the submission in 1999 of an enrollment certification form. Those facts, however, are insufficient to enable forming an opinion about whether submission of the enrollment form constituted an ''informal claim'' within the meaning of 38 CFR § 21.1029(d)(2) and, consequently, about the nature of VA's responsibility to act on that submission. It does seem clear that the veteran, thereafter, did not file a formal claim for his 1995 enrollment, as required by 38 U.S.C. § 5101(a). Nevertheless, even if he had, we find the provisions of 38 CFR § 21.7131(a) would have precluded paying benefits based on that claim. That regulation provides that no educational assistance benefits may be paid for education/training received prior to a date 1 year before a claim therefor is filed.

Effective Date: October 28, 1999.

VAOPGCPREC 14–99

Issue

Is an individual who successfully completes all requirements for eligibility for educational assistance benefits under the Montgomery GI Bill (MGIB) barred, under 38 U.S.C. § 3011(c)(2), from receiving those benefits if he or she graduates from one of the U. S. military academies and receives a commission in the Armed Forces?

Conclusion

As provided by 38 CFR § 21.7042(f)(3), an individual who has met all the military service requirements to become entitled to MGIB benefits, as set forth in 38 U.S.C. § 3011(a)(1)(A) or § 3012(a)(1)(A), and who subsequently graduates from a military academy and is commissioned an officer in the Armed Forces is not barred by 38 U.S.C. § 3011(c)(2) or § 3012(d)(2) from receiving the vested MGIB benefits. However, if an individual is commissioned upon graduating from a military academy after December 31, 1976, and before completing the military service needed to establish MGIB entitlement, that individual is disqualified by section 3011(c)(2) and section 3012(d)(2) from MGIB eligibility.

Effective Date: November 4, 1999.

VAOPGCPREC 15–99

Question Presented

Are the provisions of 38 CFR § 3.311(b)(3) and (4) valid insofar as they appear to preclude claimants from establishing that polycythemia vera was incurred as the result of exposure to ionizing radiation in service?

Held

Paragraphs (b)(3) and (b)(4) of 38 CFR § 3.311 are inconsistent with 38 U.S.C. § 1113(b) to the extent that those regulatory provisions purport to preclude a claimant from establishing by evidence that a particular veteran incurred polycythemia vera as the result of exposure to ionizing radiation in service. The Department of Veterans Affairs (VA) may not rely upon 38 CFR § 3.311(b)(3) and (4) as a basis for summarily denying any claim that polycythemia vera was incurred as a result of exposure to ionizing radiation in service. Rather, VA must give a claimant the opportunity to submit evidence to establish that a particular veteran incurred polycythemia vera as the result of exposure to ionizing radiation in service.

Effective Date: November 16, 1999.

VAOPGCPREC 16–99

Questions Presented

a. May a claimant who has been discharged from active duty with an entry level separation due to fraudulent enlistment and credited with zero net active service time by the Air Force be considered a veteran under 38 U.S.C. § 101(2)?

b. Should VA consider an Air Force enlistment which is terminated with an entry level separation to have been voided by the service department under 38 CFR § 3.14?

c. For purposes of 38 CFR § 3.14(a), if the service department has voided an enlistment, is concealment of past illegal behavior a basis for considering the discharge to have been under dishonorable conditions?

d. Does 38 CFR § 3.12(k)(1) compel a finding that a claimant's military service terminated by an uncharacterized entry level separation was ''under conditions other than dishonorable,'' regardless of the circumstances surrounding the separation from service?

Held

a. A claimant who served on active duty in the Air Force and was discharged from such service with an entry level separation due to fraudulent enlistment may qualify as a veteran under the provisions of 38 U.S.C.)101(2), even though the claimant was not credited with any net active service time.

b. Section 3.12(k)(1) of title 38, Code of Federal Regulations, requires a finding that an individual who was released from military service with an uncharacterized entry level separation was separated ''under conditions other than dishonorable.'' In such a case, the provisions of 38 CFR § 3.14(a) and (b) concerning enlistments voided by the service department are not controlling for purposes of determination of character of discharge.

Effective Date: December 15, 1999.

By Direction of the Secretary.

Leigh A. Bradley,

General Counsel.

[FR Doc. 00–2762 Filed 2–7–00; 8:45 am]

BILLING CODE 8320–01–P