

Public Law 87-825

AN ACT

October 15, 1962
[H. R. 7600]

To amend title 38, United States Code, to revise the effective date provisions relating to awards, and for other purposes.

Veterans.
Awards, effective dates.
72 Stat. 1226.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3010 of title 38, United States Code, is amended to read as follows:

“§ 3010. Effective dates of awards

“(a) Unless specifically provided otherwise in this chapter, the effective date of an award based on an original claim, a claim reopened after final adjudication, or a claim for increase, of compensation, dependency and indemnity compensation, or pension, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application therefor.

“(b) The effective date of an award of disability compensation to a veteran shall be the day following the date of his discharge or release if application therefor is received within one year from such date of discharge or release.

72 Stat. 1124;
Post, p. 950.

“(c) The effective date of an award of disability compensation by reason of section 351 of this title shall be the date such injury or aggravation was suffered if an application therefor is received within one year from such date.

“(d) The effective date of an award of death compensation, dependency and indemnity compensation, or death pension, where application is received within one year from the date of death, shall be the first day of the month in which the death occurred.

“(e) The effective date of an award of dependency and indemnity compensation to a child shall be the first day of the month in which the child's entitlement arose if application therefor is received within one year from such date.

“(f) An award of additional compensation on account of dependents based on the establishment of a disability rating in the percentage evaluation specified by law for the purpose shall be payable from the effective date of such rating; but only if proof of dependents is received within one year from the date of notification of such rating action.

72 Stat. 1225.

“(g) Subject to the provisions of section 3001 of this title, where compensation, dependency and indemnity compensation, or pension is awarded or increased pursuant to any Act or administrative issue, the effective date of such award or increase shall be fixed in accordance with the facts found but shall not be earlier than the effective date of the Act or administrative issue. In no event shall such award or increase be retroactive for more than one year from the date of application therefor or the date of administrative determination of entitlement, whichever is earlier.

“(h) Where an award of pension has been deferred or pension has been awarded at a rate based on anticipated income for a year and the claimant later establishes that income for that year was at a rate warranting entitlement or increased entitlement, the effective date of such entitlement or increase shall be fixed in accordance with the facts found if satisfactory evidence is received before the expiration of the next calendar year.

“(i) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which an

70A Stat. 116.
Ante, p. 509.

application was filed for correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, or the date such disallowed claim was filed, whichever date is the later, but in no event shall such award of benefits be retroactive for more than one year from the date of reopening of such disallowed claim. This subsection shall not apply to any application or claim for Government life insurance benefits.

"(j) Where a report or a finding of death of any person in the active military, naval, or air service has been made by the Secretary concerned, the effective date of an award of death compensation, dependency and indemnity compensation, or death pension, as applicable, shall be the first day of the month fixed by the Secretary as the month of death in such report or finding, if application therefor is received within one year from the date such report or finding has been made; however, such benefits shall not be payable to any person for any period for which such person has received, or was entitled to receive, an allowance, allotment, or service pay of the deceased.

"(k) The effective date of the award of benefits to a widow or of an award or increase of benefits based on recognition of a child, upon annulment of a marriage shall be the date the judicial decree of annulment becomes final if a claim therefor is filed within one year from the date the judicial decree of annulment becomes final; in all other cases the effective date shall be the date the claim is filed."

SEC. 2. Section 3012 of title 38, United States Code, is amended by striking out subsection (b), and by amending subsection (c) to read as follows:

Compensation,
reduction or dis-
continuance.
72 Stat. 1227.

"(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

"(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

"(2) by reason of marriage, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, divorce, or death occurs;

"(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

"(4) by reason of change in income or corpus of estate shall be the last day of the month in which the change occurred;

"(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

"(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at his last address of record) of the reduction or discontinuance;

"(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

"(8) by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

"(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with his knowledge, shall be the effective date of the award; and

"(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment."

Civil actions,
award of judgment.
72 Stat. 1124.

63 Stat. 62.
62 Stat. 983,
984; 73 Stat. 471.

Death benefits,
effective date.
72 Stat. 1229.

Ante, p. 948.

38 USC 301-501.

Repeal.
72 Stat. 1225,
1227.

72 Stat. 1113;
74 Stat. 195.

Effective date.

SEC. 3. Section 351 of title 38, United States Code, is amended by striking out “; except that no benefits shall be awarded unless application be made therefor within two years after such injury or aggravation was suffered, or such death occurred”, and by adding at the end thereof the following: “Where an individual is hereafter awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28, United States Code, or hereafter enters into a settlement or compromise under section 2672 or 2677 of title 28, United States Code, by reason of a disability, aggravation, or death treated pursuant to this section as if it were service-connected, then no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability, aggravation, or death becomes final until the aggregate amount of benefits which would be paid but for this sentence equals the total amount included in such judgment, settlement, or compromise.”

SEC. 4. (a) Chapter 53 of title 38, United States Code, is amended by adding the following new section:

“§ 3110. Payment of benefits for month of death

“If, in accordance with the provisions of section 3010(d) of this title, a widow is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran’s death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for his death.”

(b) The analysis of chapter 53 of title 38, United States Code, is amended by adding at the end thereof the following:

“3110. Payment of benefits for month of death.”

SEC. 5. (a) Sections 3004 and 3011 of title 38, United States Code, are repealed.

(b) The analysis of chapter 51 of title 38, United States Code, is amended by striking out “3004. Disallowed claims.” and “3011. Effective dates of increases.”.

SEC. 6. Sections 110 and 359 of title 38, United States Code, are amended by adding the following sentence at the end of each section: “The mentioned period shall be computed from the date determined by the Administrator as the date on which the status commenced for rating purposes.”

SEC. 7. This Act shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act, but no payments shall be made by reason of this Act for any period before such effective date. Payments for any period before such effective date shall be made under prior laws and regulations. The provisions of this Act with respect to reductions and discontinuances shall be applicable only where the event requiring such reduction or discontinuance occurs on or after such effective date. If such event occurred before such effective date, action shall be taken pursuant to the prior laws and regulations.

Approved October 15, 1962.