

program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (b)(3)(B). Pub. L. 109-364, §1071(c)(6), substituted “title” for “section”.

Subsec. (f). Pub. L. 109-163, §608(b), as amended by Pub. L. 109-364, §1071(e)(4), substituted “Secretary of Homeland Security, with respect to the Coast Guard” for “Secretary of Transportation” and struck out at end “No report is required under this subsection after March 1, 2006.”

Subsec. (i). Pub. L. 109-163, §608(a), struck out heading and text of subsec. (i). Text read as follows: “No supplemental subsistence allowance may be provided under this section after September 30, 2006.”

2004—Subsec. (b)(2). Pub. L. 108-375, §602(a)(1), substituted “concerned” for dash after “Secretary” and struck out “(A) shall not take into consideration the amount of the supplemental subsistence allowance payable under this section; but” and subpar. (B) designation before “shall take”.

Subsec. (b)(3). Pub. L. 108-375, §602(a)(2), added par. (3).

Subsecs. (g) to (i). Pub. L. 108-375, §602(b), added subsec. (g) and redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

2002—Subsec. (g)(1)(B). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (b)(1). Pub. L. 107-107 inserted “with dependents” after “a member of the armed forces”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title VI, §602(b), Oct. 28, 2009, 123 Stat. 2347, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2009, and shall apply with respect to monthly supplemental subsistence allowances for low-income members with dependents payable on or after that date.”

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(T) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title X, §1071(e), Oct. 17, 2006, 120 Stat. 2401, provided that the amendment made by section 1071(e)(4) is effective as of Jan. 6, 2006, and as if included in Pub. L. 109-163 as enacted.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VI, §602(c), Oct. 28, 2004, 118 Stat. 1944, provided that: “The amendments made by this section [amending this section] shall apply in determining, on or after the date of the enactment of this Act [Oct. 28, 2004], the eligibility of a person for a supplemental subsistence allowance under section 402a of title 37, United States Code, or for Federal assistance under a law specified in subsection (g) of such section, as so amended.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE

Pub. L. 106-398, §1 [[div. A], title VI, §604(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A-147, provided that: “Section

402a of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month that begins not less than 180 days after the date of the enactment of this Act [Oct. 30, 2000].”

§ 402b. Basic needs allowance for members on active service in the Armed Forces

(a) ALLOWANCE REQUIRED.—The Secretary concerned shall pay to each member who is eligible under subsection (b) a basic needs allowance in the amount determined for such member under subsection (c).

(b) ELIGIBLE MEMBERS.—A member on active service in the armed forces is eligible for the allowance under subsection (a) if—

(1) the member has completed initial entry training;

(2) the gross household income of the member during the most recent calendar year did not exceed an amount equal to 200 percent of the Federal poverty guidelines of the Department of Health and Human Services for the location of the member and the number of individuals in the household of the member for such year; and

(3) the member—

(A) is not ineligible for the allowance under subsection (d); and

(B) does not elect under subsection (g) not to receive the allowance.

(c) AMOUNT OF ALLOWANCE.—The amount of the monthly allowance payable to a member under subsection (a) shall be the amount equal to—

(1)(A) 200 percent of the Federal poverty guidelines of the Department of Health and Human Services for the calendar year during which the allowance is paid based on the location of the member and the number of individuals in the household of the member during the month for which the allowance is paid; minus

(B) the gross household income of the member during the preceding calendar year; divided by

(2) 12.

(d) BASES OF INELIGIBILITY.—

(1) IN GENERAL.—The following members are ineligible for the allowance under subsection (a):

(A) A member who does not have any dependents.

(B) A cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy, a midshipman at the United States Naval Academy, or a cadet or midshipman serving elsewhere in the armed forces.

(2) HOUSEHOLD WITH MORE THAN ONE ELIGIBLE MEMBER.—In the event a household contains two or more members determined under subsection (f) to be eligible to receive the allowance under subsection (a), only one allowance may be paid to a member among such members as such members shall jointly elect.

(3) AUTOMATIC INELIGIBILITY OF MEMBERS RECEIVING CERTAIN PAY INCREASES.—A member determined to be eligible under subsection (f) for the allowance under subsection (a) whose

monthly gross household income increases as a result of a promotion or other permanent increase to pay or allowances under this title to an amount that, on an annualized basis, would exceed the amount described in subsection (b)(2) is ineligible for the allowance. If such member is receiving the allowance, payment of the allowance shall automatically terminate within a reasonable time, as determined by the Secretary of Defense in regulations prescribed under subsection (j).

(4) INELIGIBILITY OF CERTAIN CHANGES IN INCOME.—A member whose gross household income for the preceding year decreases because of a fine, forfeiture, or reduction in rank imposed as a part of disciplinary action or an action under chapter 47 of title 10 (the Uniform Code of Military Justice) is not eligible for the allowance under subsection (a) solely as a result of the fine, forfeiture, or reduction in rank.

(e) APPLICATION BY MEMBERS SEEKING ALLOWANCE.—

(1) IN GENERAL.—A member who seeks to receive the allowance under subsection (a) shall submit to the Secretary concerned an application for the allowance that includes such information as the Secretary may require in order to determine whether or not the member is eligible to receive the allowance.

(2) TIMING OF SUBMISSION.—A member who receives the allowance under subsection (a) and seeks to continue to receive the allowance shall submit to the Secretary concerned an updated application under paragraph (1) at such times as the Secretary may require, but not less frequently than annually.

(3) VOLUNTARY SUBMISSION.—The submission of an application under paragraph (1) is voluntary.

(4) SCREENING OF MEMBERS FOR ELIGIBILITY.—The Secretary of Defense shall—

(A) ensure that all members of the armed forces are screened during initial entry training and regularly thereafter for eligibility for the allowance under subsection (a); and

(B) notify any member so screened who may be eligible that the member may apply for the allowance by submitting an application under paragraph (1).

(f) DETERMINATIONS OF ELIGIBILITY.—

(1) IN GENERAL.—The Secretary concerned shall—

(A) determine which members of the armed forces are eligible under subsection (b); and

(B) notify each such member, in writing, of that determination.

(2) INFORMATION INCLUDED IN NOTICE.—The notice under paragraph (1) shall include information regarding financial management and assistance programs for which the member may be eligible.

(g) ELECTION NOT TO RECEIVE ALLOWANCE.—

(1) IN GENERAL.—A member determined under subsection (f) to be eligible for the allowance under subsection (a) may elect, in writing, not to receive the allowance.

(2) DEEMED INELIGIBLE.—A member who does not submit an application under subsection (e) within a reasonable time (as determined by the Secretary concerned) shall be deemed ineligible for the allowance under subsection (a).

(h) SPECIAL RULE FOR MEMBERS STATIONED OUTSIDE UNITED STATES.—In the case of a member assigned to a duty location outside the United States, the Secretary concerned shall make the calculations described in subsections (b)(2) and (c)(1) using the Federal poverty guidelines of the Department of Health and Human Services for the continental United States.

(i) REGULATIONS.—Not later than one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, the Secretary of Defense shall prescribe regulations for the administration of this section.

(j) EFFECTIVE PERIOD.—

(1) IMPLEMENTATION PERIOD.—The allowance under subsection (a) is payable for months beginning on or after the date that is one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2022.

(2) TERMINATION.—The allowance under subsection (a) may not be paid for any month beginning after December 31, 2027.

(k) DEFINITIONS.—In this section:

(1) GROSS HOUSEHOLD INCOME.—The term “gross household income”, with respect to a member of the armed forces, includes—

(A) all household income, derived from any source; minus

(B) in the case of a member whom the Secretary concerned determines resides in an area with a high cost of living or that otherwise has a demonstrated need, any portion of the basic allowance for housing under section 403 of this title that the Secretary concerned elects to exclude.

(2) HOUSEHOLD.—The term “household” means a member of the armed forces and any dependents of the member enrolled in the Defense Enrollment Eligibility Reporting System, regardless of the location of those dependents.

(Added Pub. L. 117–81, div. A, title VI, §601(a), Dec. 27, 2021, 135 Stat. 1761; amended Pub. L. 117–263, div. A, title VI, §611(a), Dec. 23, 2022, 136 Stat. 2622; Pub. L. 117–328, div. O, title II, §201(a), Dec. 29, 2022, 136 Stat. 5226; Pub. L. 118–31, div. A, title VI, §621(a), Dec. 22, 2023, 137 Stat. 293; Pub. L. 118–159, div. A, title VI, §621, Dec. 23, 2024, 138 Stat. 1933.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the National Defense Authorization Act for Fiscal Year 2022, referred to in subsecs. (i) and (j)(1), is the date of enactment of Pub. L. 117–81, which was approved Dec. 27, 2021.

AMENDMENTS

2024—Subsec. (b)(2). Pub. L. 118–159, §621(a), struck out subpar. (A) designation before “the gross household income”, substituted “200 percent” for “150 percent” and “; and” for “; or”, and struck out subpar. (B)

which read as follows: “if the Secretary concerned determines it appropriate (based on location, household need, or special circumstance), the gross household income of the member during the most recent calendar year did not exceed an amount equal to 200 percent of the Federal poverty guidelines of the Department of Health and Human Services for the location of the member and the number of individuals in the household of the member for such year; and”.

Subsec. (c)(1)(A). Pub. L. 118-159, § 621(b), substituted “200 percent” for “150 percent (or, in the case of a member described in subsection (b)(2)(B), 200 percent)”.

2023—Subsec. (k)(1)(B). Pub. L. 118-31 inserted “or that otherwise has a demonstrated need” after “high cost of living”.

2022—Pub. L. 117-328, § 201(a)(1), made technical amendment to directory language of Pub. L. 117-263, § 611(a). See Amendment notes below.

Subsec. (b)(2). Pub. L. 117-263, § 611(a)(1), as amended by Pub. L. 117-328, § 201(a)(2), designated existing provisions as subpar. (A), substituted “150 percent” for “130 percent” and “; or” for “; and”, and added subpar. (B).

Subsec. (c)(1)(A). Pub. L. 117-263, § 611(a)(2), as amended by Pub. L. 117-328, § 201(a)(3), substituted “150 percent (or, in the case of a member described in subsection (b)(2)(B), 200 percent)” for “130 percent”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-328, div. O, title II, § 201(b), Dec. 29, 2022, 136 Stat. 5227, provided that: “The amendments made by this section [amending section 611(a) of Pub. L. 117-263, which amended this section] shall take effect as if included in the enactment of such Act [meaning Pub. L. 117-263, approved Dec. 23, 2022].”

IMPLEMENTATION

Pub. L. 118-31, div. A, title VI, § 621(b), Dec. 22, 2023, 137 Stat. 293, provided that: “The Secretary of Defense shall revise the guidance issued with respect to implementation of the basic needs allowance under section 402b of title 37, United States Code, to reflect the amendment made by subsection (a) [amending this section].”

Pub. L. 117-263, div. A, title VI, § 611(b), Dec. 23, 2022, 136 Stat. 2622, provided that: “Not later than January 1, 2024, the Secretary concerned (as defined in section 101 of title 37, United States Code) shall modify the calculation of the basic needs allowance under section 402b of title 37, United States Code, to implement the amendments made by subsection (a) [amending this section].”

§ 403. Basic allowance for housing

(a) **GENERAL ENTITLEMENT.**—(1) Except as otherwise provided by law, a member of a uniformed service who is entitled to basic pay is entitled to a basic allowance for housing at the monthly rates prescribed under this section or another provision of law with regard to the applicable component of the basic allowance for housing. The amount of the basic allowance for housing for a member will vary according to the pay grade in which the member is assigned or distributed for basic pay purposes, the dependency status of the member, and the geographic location of the member. The basic allowance for housing may be paid in advance.

(2) A member of a uniformed service with dependents is not entitled to a basic allowance for housing as a member with dependents unless the member makes a certification to the Secretary concerned indicating the status of each dependent of the member. The certification shall be

made in accordance with regulations prescribed by the Secretary of Defense.

(b) **BASIC ALLOWANCE FOR HOUSING INSIDE THE UNITED STATES.**—(1) The Secretary of Defense shall prescribe the rates of the basic allowance for housing that are applicable for the various military housing areas in the United States. The rates for an area shall be based on the costs of adequate housing determined for the area under paragraph (2).

(2) The Secretary of Defense shall determine the costs of adequate housing in a military housing area in the United States for all members of the uniformed services entitled to a basic allowance for housing in that area. The Secretary shall base the determination upon the costs of adequate housing for civilians with comparable income levels in the same area. After June 30, 2001, the Secretary may not differentiate between members with dependents in pay grades E-1 through E-4 in determining what constitutes adequate housing for members.

(3)(A) The monthly amount of the basic allowance for housing for an area of the United States for a member of a uniformed service shall be the amount equal to the difference between—

(i) the amount of the monthly cost of adequate housing in that area, as determined by the Secretary of Defense, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member; and

(ii) the amount equal to a specified percentage (determined under subparagraph (B)) of the national average monthly cost of adequate housing in the United States, as determined by the Secretary, for members of the uniformed services serving in the same pay grade and with the same dependency status as the member.

(B) The percentage to be used for purposes of subparagraph (A)(ii) shall be determined by the Secretary of Defense and may not exceed the following:

(i) One percent for months occurring during 2015.

(ii) Two percent for months occurring during 2016.

(iii) Three percent for months occurring during 2017.

(iv) Four percent for months occurring during 2018.

(v) Five percent for months occurring after 2018.

(4) An adjustment in the rates of the basic allowance for housing under this subsection as a result of the Secretary’s redetermination of housing costs in an area shall take effect on the same date as the effective date of the next increase in basic pay under section 1009 of this title or other provision of law.

(5) On and after July 1, 2001, the Secretary of Defense shall establish a single monthly rate for members of the uniformed services with dependents in pay grades E-1 through E-4 in the same military housing area. The rate shall be consistent with the rates paid to members in pay grades other than pay grades E-1 through E-4.

(6) So long as a member of a uniformed service retains uninterrupted eligibility to receive a