

11390, Jan. 22, 1968, 33 F.R. 841, set out as a note under section 301 of Title 3, The President.

[§ 426. Repealed. Pub. L. 90-377, § 10, July 5, 1968, 82 Stat. 288]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 480, provided for payment to persons confined in a naval confinement facility under sentence of a court-martial of not more than \$3 a month for necessary expenses, such payments to be made from appropriations for pay of Navy or Marine Corps.

§ 427. Family separation allowance

(a) ENTITLEMENT TO ALLOWANCE.—(1) In addition to any allowance or per diem to which he otherwise may be entitled under this title a member of a uniformed service with dependents is entitled to a monthly allowance of not less than \$250, and not more than \$400, if—

(A) the movement of his dependents to his permanent station or a place near that station is not authorized at the expense of the United States under section 452 of this title and his dependents do not reside at or near that station;

(B) he is on duty on board a ship away from the home port of the ship (or under orders to remain on board the ship while at the home port) for a continuous period of more than 30 days; or

(C) he is on temporary duty away from his permanent station for a continuous period of more than 30 days and his dependents do not reside at or near his temporary duty station.

(2) A member who becomes entitled to an allowance under this subsection by virtue of duty prescribed in subparagraph (B) or (C) of paragraph (1) for a continuous period of more than 30 days is entitled to the allowance effective as of the earlier of—

(A) the first day of that period; or

(B) the first day the member ceased being entitled to a previous allowance under this subsection by reason of the end of duty prescribed in such subparagraphs, if the member ceased being entitled to the previous allowance within 30 days before the first day of that period.

(b) ENTITLEMENT WHEN NO RESIDENCE OR HOUSEHOLD MAINTAINED FOR DEPENDENTS.—An allowance is payable under subsection (a) even though the member does not maintain for his primary dependents who would otherwise normally reside with him, a residence or household, subject to his management and control, which he is likely to share with them as a common household when his duty assignment permits.

(c) EFFECT OF ELECTION TO SERVE UNACCOMPANIED TOUR OF DUTY.—(1) Except as provided in paragraph (2) or (3), a member who elects to serve a tour of duty unaccompanied by his dependents at a permanent station to which the movement of his dependents is authorized at the expense of the United States under section 452 of this title is not entitled to an allowance under subsection (a)(1)(A).

(2) The prohibition in the first sentence of paragraph (1) does not apply to a member who elects to serve an unaccompanied tour of duty

because a dependent cannot accompany the member to or at that permanent station for certified medical reasons.

(3) The Secretary concerned may waive paragraph (1) in situations in which it would be inequitable to deny the allowance to the member because of unusual family or operational circumstances.

(d) ENTITLEMENT WHILE SPOUSE ENTITLED TO BASIC PAY.—(1) A member married to another member of the uniformed services becomes entitled, regardless of any other dependency status, to an allowance under subsection (a) by virtue of duty prescribed in subparagraph (A), (B), or (C) of paragraph (1) of such subsection if the members were residing together immediately before being separated by reasons of execution of military orders.

(2) If a married couple, both of whom are members of the uniformed services, with dependents are simultaneously assigned to duties described in subparagraph (A), (B), or (C) of subsection (a)(1) and the members resided together with their dependents immediately before their assignments, the Secretary concerned shall pay each of the members the full amount of the monthly allowance specified in such subsection until one of the members is no longer assigned to duties described in such subparagraphs. Upon expiration of the additional allowance, paragraph (1) shall continue to apply to the remaining member so long as the member is assigned to duties described in subparagraph (A), (B), or (C) of such subsection.

(3) Section 421 of this title does not apply to bar the entitlement to an allowance under this section. Except as provided in paragraph (2), not more than one monthly allowance may be paid with respect to a married couple under this section.

(Added Pub. L. 88-132, §11(1), Oct. 2, 1963, 77 Stat. 217; amended Pub. L. 91-529, §1, Dec. 7, 1970, 84 Stat. 1389; Pub. L. 91-533, §1, Dec. 7, 1970, 84 Stat. 1392; Pub. L. 96-342, title VIII, §809(a), Sept. 8, 1980, 94 Stat. 1097; Pub. L. 99-145, title VI, §607(a), Nov. 8, 1985, 99 Stat. 639; Pub. L. 99-661, div. A, title VI, §618(a), Nov. 14, 1986, 100 Stat. 3880; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102-190, div. A, title VI, §§611(b), 625, Dec. 5, 1991, 105 Stat. 1376, 1379; Pub. L. 103-337, div. A, title VI, §625(a), Oct. 5, 1994, 108 Stat. 2785; Pub. L. 104-106, div. A, title VI, §606, Feb. 10, 1996, 110 Stat. 358; Pub. L. 104-201, div. A, title VI, §607, Sept. 23, 1996, 110 Stat. 2542; Pub. L. 105-85, div. A, title VI, §§603(c)(3), 626, Nov. 18, 1997, 111 Stat. 1781, 1795; Pub. L. 107-107, div. A, title VI, §607(a), Dec. 28, 2001, 115 Stat. 1134; Pub. L. 108-11, title I, §1316(b), (c)(2), Apr. 16, 2003, 117 Stat. 570; Pub. L. 108-136, div. A, title VI, §§606, 618(d)(2), Nov. 24, 2003, 117 Stat. 1500, 1504; Pub. L. 108-375, div. A, title VI, §623(b), Oct. 28, 2004, 118 Stat. 1955; Pub. L. 110-417, [div. A], title VI, §604(a), Oct. 14, 2008, 122 Stat. 4483; Pub. L. 112-81, div. A, title VI, §631(f)(4)(A), Dec. 31, 2011, 125 Stat. 1465; Pub. L. 112-239, div. A, title X, §1076(a)(9), Jan. 2, 2013, 126 Stat. 1948; Pub. L. 116-283, div. A, title VI, §615, Jan. 1, 2021, 134 Stat. 3675; ; Pub. L. 117-263, div. A, title VI, §626(h)(4), Dec. 23, 2022, 136 Stat.