

DISABILITY COMPENSATION OR DEPENDENCY AND INDEMNITY COMPENSATION AWARD; EFFECTIVE DATE

Pub. L. 91-621, § 6(b), Dec. 31, 1970, 84 Stat. 1864, provided effective date for an award by Veteran's Administration arising from injury or death occurring prior to Dec. 31, 1970, and based on a claim arising from amendments made to pars. (21)(C) and (25)(F) of this section and section 5305 of this title, prior to repeal by Pub. L. 107-372, title II, § 271(3), Dec. 19, 2002, 116 Stat. 3094.

SECRETARY AND DEPARTMENT DEFINED

Pub. L. 106-117, § 3, Nov. 30, 1999, 113 Stat. 1547, provided that: "For purposes of this Act [see Tables for classification]—

"(1) the term 'Secretary' means the Secretary of Veterans Affairs; and

"(2) the term 'Department' means the Department of Veterans Affairs."

DEFINITION OF ADMINISTRATOR FOR 1988 AMENDMENTS

Pub. L. 100-687, div. B, § 1002, Nov. 18, 1988, 102 Stat. 4122, provided that: "For purposes of this division [see Tables for classification], the term 'Administrator' means the Administrator of Veterans' Affairs."

Pub. L. 100-322, § 3, May 20, 1988, 102 Stat. 489, provided that: "For purposes of this Act [see Tables for classification], the term 'Administrator' means the Administrator of Veterans' Affairs."

Executive Documents

PROC. NO. 4373. TERMINAL DATE RESPECTING SERVICE DURING VIETNAM ERA

Proc. No. 4373, May 7, 1975, 40 F.R. 20257, provided:

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval, or air service during that period.

The signing of the cease-fire agreements and implementing protocols on January 27, 1973, between the United States of America and the Republic of Vietnam, on the one hand, and the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam on the other hand, has terminated active participation by the Armed Forces of the United States in the Vietnam conflict.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the "Vietnam era."

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD.

§ 102. Dependent parents

(a) Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Secretary.

(b) Dependency of a parent shall not be denied (1) solely because of remarriage, or (2) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Secretary shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.

(c) For the purposes of this section, in determining monthly income the Secretary shall not consider any payments under laws administered by the Secretary because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 89-358, § 4(e), (f), Mar. 3, 1966, 80 Stat. 24; Pub. L. 92-540, title IV, § 408, Oct. 24, 1972, 86 Stat. 1092; Pub. L. 94-432, title IV, § 402, Sept. 30, 1976, 90 Stat. 1372; Pub. L. 99-576, title VII, § 701(1), Oct. 28, 1986, 100 Stat. 3289; Pub. L. 102-54, § 14(a)(2), June 13, 1991, 105 Stat. 282; Pub. L. 102-83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

Editorial Notes

AMENDMENTS

1991—Subsecs. (a), (b). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (c). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary shall" for "Administrator shall".

Pub. L. 102-83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Pub. L. 102-54 substituted "(c)" for "(C)" as subsec. designation.

1986—Pub. L. 99-576, § 701(1)(B), substituted "Dependent parents" for "Dependent parents; husbands" in section catchline.

Subsec. (a). Pub. L. 99-576, § 701(1)(A)(ii), (iii), (v), struck out par. (1) designation and redesignated par. (2) of subsec. (a) as subsec. (b) and par. (3) of subsec. (a) as subsec. (C).

Subsec. (b). Pub. L. 99-576, § 701(1)(A)(i), (iii), (iv), redesignated former subsec. (a)(2) as subsec. (b) and substituted "(1)" and "(2)" for "(A)" and "(B)", respectively. Former subsec. (b), which read "For the purposes of this title, (1) the term 'wife' includes the husband of any female veteran; and (2) the term 'widow' includes the widower of any female veteran", was struck out.

Subsec. (c). Pub. L. 99-576, § 701(1)(A)(v), redesignated former subsec. (a)(3) as subsec. (C) and substituted "For the purposes of this section," for "For the purposes of this subsection".

1976—Subsec. (a)(2). Pub. L. 94-432 substituted prohibition against denial of dependency of a parent "(B) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support" for such prohibition "(B) in any case in any State where the monthly income for a mother or father, not living together, is not more than \$105, or where the monthly income for a mother and father living together, is not more than \$175, plus, in either case, \$45, for each additional member of the family whom the father or mother is under a moral or legal obligation to support, as determined by the Administrator".

1972—Pub. L. 92-540, § 408(2), substituted "Dependent parents; husbands" for "Dependent parents and dependent husbands" in section catchline.

Subsec. (b). Pub. L. 92-540, § 408(1), struck out exception which made definition of terms inapplicable to chapter 19 of this title and struck out from definitions of "wife" and "widow" provisions relating to the ability of such persons to maintain and support themselves.

1966—Subsec. (a)(2). Pub. L. 89-358, § 4(e), substituted "Dependency" for "Except for the purposes of chapter 33 of this title, dependency".

Subsec. (b). Pub. L. 89-358, § 4(f), struck out from introductory parenthetical phrase reference to chapter 33 of this title.

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by Pub. L. 94-432 effective Sept. 30, 1976, see section 405(a) of Pub. L. 94-432, set out as a note under section 1521 of this title.

§ 103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a person as the widow or widower of a veteran for gratuitous death benefits under laws administered by the Secretary, it is established by evidence satisfactory to the Secretary that such person, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with the veteran for one year or more immediately before the veteran's death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow or widower of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a surviving spouse has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not a person is or was the spouse of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Secretary according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Secretary determines that the annulment was secured through fraud by either party or collusion.

(2)(A) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran if the remarriage has been terminated by death or divorce unless the Secretary determines that the divorce was secured through fraud or collusion.

(B) The remarriage after age 57 of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran. Notwithstanding the previous sentence, the remarriage after age 55 of the surviving spouse of a veteran shall not bar the furnishing of benefits under chapter 13 or section 1781 of this title to such person as the surviving spouse of the veteran.

(3) If the surviving spouse of a veteran ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person benefits as the surviving spouse of the veteran shall not apply in the case of the benefits specified in paragraph (5).

(4) The first month of eligibility for benefits for a surviving spouse by reason of paragraph (2)(A) or (3) shall be the month after—

(A) the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (2)(A); or

(B) the month of the cessation described in paragraph (3), in the case of a surviving spouse described in that paragraph.

(5) Paragraphs (2)(A) and (3) apply with respect to benefits under the following provisions of this title:

(A) Section 1311, relating to dependency and indemnity compensation.

(B) Section 1781, relating to medical care for survivors and dependents of certain veterans.

(C) Chapter 35, relating to educational assistance.

(D) Chapter 37, relating to housing loans.

(E) Section 1562(a)(2), relating to Medal of Honor special pension.

(e) The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Secretary determines that the annulment was secured through fraud by either party or collusion.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 87-674, § 2, Sept. 19, 1962, 76 Stat. 558; Pub. L. 90-77, title I, § 101(b), Aug. 31, 1967, 81 Stat. 178; Pub. L. 91-376, § 4, Aug. 12, 1970, 84 Stat. 789; Pub. L. 93-527, § 9(a), Dec. 21, 1974, 88 Stat. 1705; Pub. L. 99-576, title VII, § 701(2), Oct. 28, 1986, 100 Stat. 3290; Pub. L. 101-508, title VIII, § 8004(a), Nov. 5, 1990, 104 Stat. 1388-343; Pub. L. 102-83, § 4(a)(1), (2)(A)(i), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 106-117, title V, § 502(a), Nov. 30, 1999, 113 Stat. 1574; Pub. L. 107-135, title II, § 208(e)(1), Jan. 23, 2002, 115 Stat. 2463; Pub. L. 107-330, title I, § 101(a), Dec. 6, 2002, 116 Stat. 2821; Pub. L. 108-183, title I, § 101(a), title VII, § 708(a)(1), Dec. 16, 2003, 117 Stat. 2652, 2673; Pub. L. 116-315, title II, §§ 2003(b)(2)(B), 2009, Jan. 5, 2021, 134 Stat. 4970, 4978.)

Editorial Notes**AMENDMENTS**

2021—Subsec. (d)(2)(B). Pub. L. 116-315, § 2009, inserted “chapter 13 or” after “benefits under”.

Subsec. (d)(5)(E). Pub. L. 116-315, § 2003(b)(2)(B), added subpar. (E).

2003—Subsec. (d)(2)(B). Pub. L. 108-183, § 101(a), substituted “The remarriage after age 57 of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran. Notwithstanding the previous sentence, the remarriage after age 55” for “The remarriage after age 55”.

Subsec. (d)(4). Pub. L. 108-183, § 708(a)(1)(A)(i), substituted “paragraph (2)(A) or (3)” for “this subsection” in introductory provisions.

Subsec. (d)(4)(A). Pub. L. 108-183, § 708(a)(1)(A)(ii), substituted “paragraph (2)(A)” for “paragraph (2)”.

Subsec. (d)(5). Pub. L. 108-183, § 708(a)(1)(B), substituted “Paragraphs (2)(A)” for “Paragraphs (2)” in introductory provisions.

2002—Subsec. (d)(2). Pub. L. 107-330 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(5)(B). Pub. L. 107-135 substituted “1781” for “1713”.