

year after date of veteran's most recent departure from Vietnam, but with no such interim benefits to be paid after Sept. 30, 1986.

RADIATION EXPOSURE STUDY AND GUIDE

Pub. L. 98-160, title VI, Nov. 21, 1983, 97 Stat. 1006, as amended by Pub. L. 98-542, §8(b), Oct. 24, 1984, 98 Stat. 2732, provided for the conduct of an epidemiological study of long-term adverse health effects of exposure to ionizing radiation from detonation of nuclear devices in connection with tests of such devices or in connection with occupation of Hiroshima and Nagasaki, Japan, between Sept. 11, 1945, and July 1, 1946, and provided for reports to Congress on studies made together with recommendations as to necessary legislation.

§ 1155. Authority for schedule for rating disabilities

The Secretary shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, 80 percent, 90 percent, and total, 100 percent. The Secretary shall from time to time readjust this schedule of ratings in accordance with experience. However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, §355; Pub. L. 98-223, title I, §101(c), Mar. 2, 1984, 98 Stat. 38; renumbered §1155 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-86, title I, §103(a), Aug. 14, 1991, 105 Stat. 414.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-86 amended this section as in effect before the redesignations made by Pub. L. 102-83, §5, by inserting at end “However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.”

Pub. L. 102-83, §5(a), renumbered section 355 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in two places.

1984—Pub. L. 98-223 substituted “percent” for “per centum” wherever appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-86, title I, §103(b), Aug. 14, 1991, 105 Stat. 415, provided that: “The amendment made by subsection (a) [amending this section] shall apply with regard to changes in rating schedules that take effect after the date of the enactment of this Act [Aug. 14, 1991].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-223 effective Apr. 1, 1984, see section 107 of Pub. L. 98-223, set out as a note under section 1114 of this title.

§ 1156. Temporary disability ratings

(a) ASSIGNMENT OF TEMPORARY RATINGS.—(1) For the purpose of providing disability compensation under this chapter to veterans, the Secretary shall assign a temporary disability rating to a veteran as follows:

(A) To a veteran who—

(i) was discharged or released from active duty not more than 365 days before the date such veteran submits a claim for disability compensation under this chapter;

(ii) has one or more disabilities for which a rating of total is not immediately assignable—

(I) under the regular provisions of the schedule of ratings; or

(II) on the basis of individual unemployability; and

(iii) has one or more—

(I) severe disabilities that result in substantially gainful employment not being feasible or advisable; or

(II) healed, unhealed, or incompletely healed wounds or injuries that make material impairment of employability likely.

(B) To a veteran who, as a result of a highly stressful in-service event, has a mental disorder that is severe enough to bring about the veteran's discharge or release from active duty.

(C) To a veteran who has a service-connected disability that requires hospital treatment or observation in a Department of Veterans Affairs or approved hospital for a period in excess of 21 days.

(D) To a veteran who has a service-connected disability that has required convalescent care or treatment at hospital discharge (regular discharge or release to non-bed care) or outpatient release that meets the requirements of regulations prescribed by the Secretary.

(2) With respect to a veteran described in paragraph (1)(A), the Secretary may assign a temporary disability rating to such veteran regardless of whether such veteran has obtained a medical examination or a medical opinion concerning such veteran's disability.

(3) With respect to a veteran described in paragraph (1)(B), the Secretary shall schedule a medical examination for such veteran not later than six months after the separation or discharge of such veteran from active duty.

(b) TERMINATION OF TEMPORARY DISABILITY RATINGS.—(1) Except as provided in paragraph (2), a temporary disability rating assigned to a veteran under this section shall remain in effect as follows:

(A) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(A), until the later of the date that is—

(i) 12 months after the date of discharge or release from active duty; or

(ii) provided in regulations prescribed by the Secretary.

(B) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(B), until the date on which a rating decision is issued to such veteran following the

medical examination scheduled under subsection (a)(3).

(C) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(C), until the later of the date that is—

- (i) the last day of the month in which the veteran is discharged from the hospital as described in such subsection (a)(1)(C); or
- (ii) provided in regulations prescribed by the Secretary.

(D) For a veteran who is assigned a temporary disability rating under subsection (a)(1)(D), until the date that is provided in regulations prescribed by the Secretary.

(2) The Secretary may extend a temporary disability rating assigned to a veteran under subsection (a) beyond the applicable termination date under paragraph (1) if the Secretary determines that such an extension is appropriate.

(c) REGULATIONS.—The Secretary shall prescribe regulations to carry out the provisions of this section.

(d) CONSTRUCTION.—Nothing in this section shall be construed to preclude the Secretary from providing a temporary disability rating under an authority other than this section.

(Added Pub. L. 110-389, title II, §211(a), Oct. 10, 2008, 122 Stat. 4149.)

Editorial Notes

CODIFICATION

Prior to renumbering of sections 301 to 363 of this chapter as sections 1101 to 1163 by Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406, section 356 of this chapter, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, which provided for a minimum rating for veterans with arrested tuberculosis, was repealed by Pub. L. 90-493, §4, Aug. 19, 1968, 82 Stat. 809, but repeal not applicable in case of veteran who on Aug. 19, 1968, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 110-389, title II, §211(b), Oct. 10, 2008, 122 Stat. 4151, provided that: “Section 1156(a)(1) of title 38, United States Code, as added by subsection (a), shall apply with respect to a veteran who is discharged or released from active duty (as defined in section 101 of title 38, United States Code) on or after the date of the enactment of this Act [Oct. 10, 2008].”

§ 1157. Combination of certain ratings

The Secretary shall provide for the combination of ratings and pay compensation at the rates prescribed in subchapter II of this chapter to those veterans who served during a period of war and during any other time, who have suffered disability in line of duty in each period of service.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, §357; renumbered §1157 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 357 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

§ 1158. Disappearance

Where a veteran receiving compensation under this chapter disappears, the Secretary may pay the compensation otherwise payable to the veteran to such veteran's spouse, children, and parents. Payments made to such spouse, child, or parent under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1125, §358; Pub. L. 86-212, Sept. 1, 1959, 73 Stat. 436; Pub. L. 94-433, title IV, §404(21), Sept. 30, 1976, 90 Stat. 1379; renumbered §1158 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 358 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

1976—Pub. L. 94-433 struck out “, in his discretion,” after “Administrator” and substituted “such veteran's spouse” for “his wife” and “such spouse” for “a wife”.

1959—Pub. L. 86-212 substituted “a veteran” for “an incompetent veteran”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as a note under section 1101 of this title.

§ 1159. Protection of service connection

Service connection for any disability or death granted under this title which has been in force for ten or more years shall not be severed on or after January 1, 1962, except upon a showing that the original grant of service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The mentioned period shall be computed from the date determined by the Secretary as the date on which the status commenced for rating purposes.

(Added Pub. L. 86-501, §1, June 10, 1960, 74 Stat. 195, §359; amended Pub. L. 87-825, §6, Oct. 15, 1962, 76 Stat. 950; renumbered §1159 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 359 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

1962—Pub. L. 87-825 provided for computation of the period from the date the administrator determines as the date the status commenced for rating purposes.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective first day of second calendar month which begins after Oct. 15, 1962,