

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-117 effective Oct. 1, 1977, see section 501 of Pub. L. 95-117, set out as a note under section 1114 of this title.

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.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-71 effective Aug. 1, 1975, see section 301 of Pub. L. 94-71, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as an Effective Date of 1972 Amendment note under section 1114 of this title.

REPEAL

Section 405(d) of Pub. L. 97-253, cited as a credit to this section, was repealed by Pub. L. 97-306, §§107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

SPECIAL BENEFIT ALLOWANCE RATES

For current VA special benefit allowance rates, see <https://www.va.gov/disability/compensation-rates/special-benefit-allowance-rates/>

§ 1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings

(a)(1) The disability rating of a qualified veteran who begins to engage in a substantially gainful occupation after January 31, 1985, may not be reduced on the basis of the veteran having secured and followed a substantially gainful occupation unless the veteran maintains such an occupation for a period of 12 consecutive months.

(2) For purposes of this section, the term "qualified veteran" means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

(b) The Secretary shall make counseling services described in section 3104(a)(2) of this title and placement and postplacement services described in section 3104(a)(5) of this title available to each qualified veteran (whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of this title).

(c)(1) In the case of each award after January 31, 1985, of a rating of total disability described in subsection (a)(2) of this section to a veteran, the Secretary shall provide to the veteran, at the time that notice of the award is provided to the veteran, a statement providing—

(A) notice of the provisions of this section;

(B) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title; and

(C) a summary description of the scope of services and assistance available under that chapter.

(2) After providing the notice required under paragraph (1) of this subsection, the Secretary shall offer the veteran the opportunity for an evaluation under section 3106(a) of this title.

(Added Pub. L. 98-543, title I, § 111(a)(1), Oct. 24, 1984, 98 Stat. 2738, § 363; amended Pub. L. 100-687, div. B, title XIII, § 1301, Nov. 18, 1988, 102 Stat. 4127; renumbered § 1163 and amended Pub. L. 102-83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-291, § 2(a), May 20, 1992, 106 Stat. 178; Pub. L. 102-568, title IV, § 401(a)-(d)(1), Oct. 29, 1992, 106 Stat. 4336.)

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-568, § 401(d)(1), substituted "Trial work periods and vocational rehabilitation for certain veterans with total disability ratings" for "Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings" as section catchline.

Subsec. (a)(1). Pub. L. 102-568, § 401(a)(1), substituted "after January 31, 1985," for "during the program period".

Subsec. (a)(2). Pub. L. 102-568, § 401(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For purposes of this section:

"(A) The term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

"(B) The term 'program period' means the period beginning on February 1, 1985, and ending on December 31, 1992."

Pub. L. 102-291 substituted "December 31, 1992" for "January 31, 1992" in subparagraph (B).

Subsec. (b). Pub. L. 102-568, § 401(b), substituted "The Secretary" for "During the program period, the Secretary".

Subsec. (c)(1). Pub. L. 102-568, § 401(c), substituted "after January 31, 1985, of a rating of total disability described in subsection (a)(2)" for "during the program period of a rating of total disability described in subsection (a)(2)(A)".

1991—Pub. L. 102-83, § 5(a), renumbered section 363 of this title as this section.

Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted "3104(a)(2)" for "1504(a)(2)" and "3104(a)(5)" for "1504(a)(5)".

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

Subsec. (c). Pub. L. 102-83, § 5(c)(1), substituted "3106(a)" for "1506(a)" in par. (2).

Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in pars. (1) and (2).

1988—Subsec. (a)(2)(B). Pub. L. 100-687, § 1301(a), substituted "1992" for "1989".

Subsec. (c)(1). Pub. L. 100-687, § 1301(b)(2), (3), substituted "(1) In" for "(1)(A) Except as provided in paragraph (4) of this subsection, in", redesignated cl. (i), (ii), and (iii) as subpars. (A), (B), and (C), respectively, and struck out former subparagraph (B) which required that, after providing notice, Administrator arrange promptly for evaluation to determine whether achievement of vocational goal by veteran is feasible.

Subsec. (c)(2). Pub. L. 100-687, § 1301(b)(1), (3)(B), added par. (2) and struck out former par. (2) which related to failure of veteran to participate in evaluation, and reduction of disability rating.

Subsec. (c)(3). Pub. L. 100-687, § 1301(b)(1), struck out par. (3) which related to individualized written plan of vocational rehabilitation after completion of evaluation, and failure to pursue program of vocational rehabilitation described in such plan.

Subsec. (c)(4). Pub. L. 100-687, §1301(b)(1), struck out par. (4) which read as follows: “This subsection does not apply with respect to a veteran as to whom the Administrator determines that an evaluation of vocational rehabilitation potential or achievement of a vocational goal is not reasonably feasible.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-291, §2(d), May 20, 1992, 106 Stat. 178, provided that: “The amendments made by subsections (a) through (c) [amending this section and sections 1524 and 1525 of this title] shall take effect as of January 31, 1992.”

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Pub. L. 102-291, §2(e), May 20, 1992, 106 Stat. 178, provided that: “The following actions of the Secretary of Veterans Affairs during the period beginning on February 1, 1992, and ending on the date of the enactment of this Act [May 20, 1992] are hereby ratified with respect to that period:

“(1) A failure to reduce the disability rating of a veteran who began to engage in a substantially gainful occupation during that period.

“(2) The provision of a vocational training program (including related evaluations and other related services) to a veteran under section 1524 of title 38, United States Code, and the making of related determinations under that section.

“(3) The provision of health care and services to a veteran pursuant to section 1525 of title 38, United States Code.”

INFORMATION; TEMPORARY PROGRAM; ADMINISTRATOR

Pub. L. 98-543, title I, §111(b), Oct. 24, 1984, 98 Stat. 2739, directed Administrator of Veterans' Affairs to provide, not later than Apr. 1, 1985, to certain veterans with service-connected disabilities, a statement containing information explaining subsec. (b) of this section, information explaining purposes and availability of and eligibility for, and procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title, and a summary description of scope of services and assistance available under chapter 31.

REPORT TO CONGRESSIONAL COMMITTEES; TRIAL PROGRAM

Pub. L. 98-543, title I, §111(c), Oct. 24, 1984, 98 Stat. 2739, as amended by Pub. L. 99-576, title VII, §703(a)(2), Oct. 28, 1986, 100 Stat. 3303, directed Administrator of Veterans' Affairs to submit, not later than Apr. 15, 1988, to Committees on Veterans' Affairs of Senate and House of Representatives a report on results of implementation of this section during the three-year period beginning on Feb. 1, 1985.

§ 1164. Presumptions of service-connection for Coronavirus Disease 2019

(a) PRESUMPTIONS GENERALLY.—(1) For purposes of laws administered by the Secretary and subject to section 1113 of this title, if symptoms of Coronavirus Disease 2019 (in this section referred to as “COVID-19”) described in subsection (d) manifest within one of the manifestation periods described in paragraph (2) in an individual who served in a qualifying period of duty described in subsection (b)—

(A) infection with severe acute respiratory syndrome coronavirus 2 (in this section referred to as “SARS-CoV-2”) shall be presumed to have occurred during the qualifying period of duty;

(B) COVID-19 shall be presumed to have been incurred during the qualifying period of duty; and

(C) if the individual becomes disabled or dies as a result of COVID-19, it shall be presumed that the individual became disabled or died during the qualifying period of duty for purposes of establishing that the individual served in the active military, naval, or air service.

(2)(A) The manifestation periods described in this paragraph are the following:

(i) During a qualifying period of duty described in subsection (b), if that period of duty was more than 48 continuous hours in duration.

(ii) Within 14 days after the individual's completion of a qualifying period of duty described in subsection (b).

(iii) An additional period prescribed under subparagraph (B).

(B)(i) If the Secretary determines that a manifestation period of more than 14 days after completion of a qualifying period of service is appropriate for the presumptions under paragraph (1), the Secretary may prescribe that additional period by regulation.

(ii) A determination under clause (i) shall be made in consultation with the Director of the Centers for Disease Control and Prevention.

(b) QUALIFYING PERIOD OF DUTY DESCRIBED.—A qualifying period of duty described in this subsection is—

(1) a period of active duty performed—

(A) during the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.); and

(B) before the date that is three years after the date of the enactment of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020; or

(2) training duty under title 10 or full-time National Guard duty (as defined in section 101 of title 10), performed under orders issued on or after March 13, 2020—

(A) during the national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.); and

(B) before the date that is three years after the date of the enactment of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020.

(c) APPLICATION OF PRESUMPTIONS FOR TRAINING DUTY.—When, pursuant to subsection (a), COVID-19 is presumed to have been incurred during a qualifying period of duty described in subsection (b)(2)—

(1) COVID-19 shall be deemed to have been incurred in the line of duty during a period of active military, naval, or air service; and

(2) where entitlement to benefits under this title is predicated on the individual who was disabled or died being a veteran, benefits for disability or death resulting from COVID-19 as described in subsection (a) shall be paid or furnished as if the individual was a veteran, without regard to whether the period of duty would constitute active military, naval, or air service under section 101 of this title.

(d) SYMPTOMS OF COVID-19.—For purposes of subsection (a), symptoms of COVID-19 are those