

surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

“(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.”

1982—Subsec. (b)(1). Pub. L. 97-306 inserted “or entitled to receive” after “was in receipt of”.

1978—Subsecs. (b), (c). Pub. L. 95-479 added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94-433 substituted “such veteran’s surviving spouse” for “his widow”.

Subsec. (b). Pub. L. 94-433 substituted “surviving spouse”, “such veteran”, and “such veteran’s” for “widow”, “he”, and “his”, respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Subsec. (c) of this section effective with respect to dependency and indemnity compensation payments for months beginning after Mar. 26, 2002, see section 302(c) of Pub. L. 108-454, set out as a note under section 1112 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT; RETROSPECTIVE PAYMENTS

Pub. L. 97-306, title I, §112(b), Oct. 14, 1982, 96 Stat. 1432, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1982.

“(2)(A) As soon as practicable after September 30, 1982, the Administrator of Veterans’ Affairs shall pay an amount determined under subparagraph (B) to each person who would have been entitled to a payment under chapter 13 of title 38, United States Code, for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by subsection (a) [amending this section] had taken effect on October 1, 1978.

“(B) The amount of any payment to a person under subparagraph (A) is the amount equal to the total of all payments under chapter 13 of title 38, United States Code, that would have been made to that person for the period described in such subparagraph if the amendment made by subsection (a) [amending this section] had taken effect on October 1, 1978.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95-479, 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.

GAO REPORT RELATING TO BENEFITS FOR SURVIVORS OF VETERANS AND MEMBERS OF ARMED FORCES

Pub. L. 102-568, title I, §104, Oct. 29, 1992, 106 Stat. 4322, required the Comptroller General of the United States to submit to Congress a report, with specified contents and due not later than Apr. 1, 1994, with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors of veterans.

DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Pub. L. 94-433, title II, §204, Sept. 30, 1976, 90 Stat. 1376, directed Administrator of Veterans’ Affairs to study dependency and indemnity compensation pro-

gram authorized by this chapter in order to evaluate benefits provided by program and to determine whether, or to what extent, benefits should be based on military pay grade of person upon whose death entitlement is predicated, and directed Administrator to submit to Congress and President not later than Oct. 1, 1977, a report containing results of study together with Administrator’s recommendations for improvement of program.

STUDY BY ADMINISTRATOR OF DEPENDENCY AND INDEMNITY COMPENSATION CLAIMS

Pub. L. 94-71, §204, Aug. 5, 1975, 89 Stat. 397, directed Administrator of Veterans’ Affairs to make a study of claims for dependency and indemnity compensation relating to veterans who at time of death during period Sept. 1, 1975 to Mar. 1, 1976, were receiving disability compensation based upon a total and permanent disability and required report to be submitted to Speaker of House and President of Senate no later than Oct. 1, 1976.

Pub. L. 93-295, title II, §207, May 31, 1974, 88 Stat. 183, directed Administrator to make a study of claims for dependency and indemnity compensation relating to veterans who, at time of death within six months of May 31, 1974, were receiving disability compensation, and to report to Speaker of House and President of Senate no more than 30 days after beginning of 94th Congress.

§ 1311. Dependency and indemnity compensation to a surviving spouse

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of \$1,154.

(2) The rate under paragraph (1) shall be increased by \$246 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran’s disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$1,154	W-4	\$1,380
E-2	\$1,154	O-1	\$1,219
E-3	\$1,154	O-2	\$1,260
E-4	\$1,154	O-3	\$1,347
E-5	\$1,154	O-4	\$1,427
E-6	\$1,154	O-5	\$1,571
E-7	\$1,194	O-6	\$1,771
E-8	\$1,260	O-7	\$1,912
E-9	\$1,314 ¹	O-8	\$2,100
W-1	\$1,219	O-9	\$2,246
W-2	\$1,267	O-10	\$2,463 ²

Pay grade	Monthly rate	Pay grade	Monthly rate
W-3	\$1,305		

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$1,419.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be \$2,643.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$286 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by \$286 if the spouse is (1) a patient in a nursing home or (2) blind, or so nearly blind or significantly disabled as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by \$135 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

(e) In the case of an individual who is eligible for dependency and indemnity compensation under this section by reason of section 103(d)(2)(B) of this title who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, notwithstanding any other provision of law (other than section 5304(b)(3) of this title), no reduction in benefits under such other provision of law shall be made by reason of such individual's eligibility for benefits under this section.

(f)(1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$250 (as increased from time to time under paragraph (4)), regardless of the number of such children.

(2) Dependency and indemnity compensation shall be increased under this subsection only for months occurring during the two-year period beginning on the date on which entitlement to dependency and indemnity compensation commenced.

(3) The increase in dependency and indemnity compensation of a surviving spouse under this

subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of 18.

(4) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the amount payable under paragraph (1), as such amount was in effect immediately prior to the date of such increase in benefit amounts, by the same percentage as the percentage by which such benefit amounts are increased. Any increase in a dollar amount under this paragraph shall be rounded down to the next lower whole dollar amount.

(5) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable under this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1127, §411; Pub. L. 87-268, §1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88-21, §1, May 15, 1963, 77 Stat. 17; Pub. L. 88-134, §1, Oct. 5, 1963, 77 Stat. 223; Pub. L. 91-24, §4(b), June 11, 1969, 83 Stat. 33; Pub. L. 91-96, §3, Oct. 27, 1969, 83 Stat. 144; Pub. L. 91-588, §3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92-197, §1, Dec. 15, 1971, 85 Stat. 660; Pub. L. 92-455, §4, Oct. 2, 1972, 86 Stat. 761; Pub. L. 93-295, title II, §201, May 31, 1974, 88 Stat. 182; Pub. L. 94-71, title II, §201, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94-433, title II, §201, Sept. 30, 1976, 90 Stat. 1375; Pub. L. 95-117, title II, §201, Oct. 3, 1977, 91 Stat. 1064; Pub. L. 95-479, title II, §201, Oct. 18, 1978, 92 Stat. 1562; Pub. L. 96-128, title II, §201, Nov. 28, 1979, 93 Stat. 984; Pub. L. 96-385, title II, §201, Oct. 7, 1980, 94 Stat. 1529; Pub. L. 97-66, title II, §201, Oct. 17, 1981, 95 Stat. 1028; Pub. L. 97-253, title IV, §405(e), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97-306, title I, §§104, 107, Oct. 14, 1982, 96 Stat. 1430, 1431; Pub. L. 98-223, title I, §104, Mar. 2, 1984, 98 Stat. 38; Pub. L. 98-543, title I, §104, Oct. 24, 1984, 98 Stat. 2736; Pub. L. 99-238, title I, §104, Jan. 13, 1986, 99 Stat. 1766; Pub. L. 99-576, title I, §104, Oct. 28, 1986, 100 Stat. 3251; Pub. L. 100-180, div. A, title XIII, §1314(d)[(1)], Dec. 4, 1987, 101 Stat. 1176; Pub. L. 100-227, title I, §104, Dec. 31, 1987, 101 Stat. 1554; Pub. L. 100-687, div. B, title XI, §1104, Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101-237, title I, §104, Dec. 18, 1989, 103 Stat. 2063; Pub. L. 102-3, §5, Feb. 6, 1991, 105 Stat. 9; renumbered §1311 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-152, §5, Nov. 12, 1991, 105 Stat. 986; Pub. L. 102-568, title I, §102(a), (b), Oct. 29, 1992, 106 Stat. 4321, 4322; Pub. L. 103-78, §4, Aug. 13, 1993, 107 Stat. 768; Pub. L. 103-140, §5, Nov. 11, 1993, 107 Stat. 1486; Pub. L. 105-98, §5, Nov. 19, 1997, 111 Stat. 2156; Pub. L. 105-178, title VIII, §8207(a), June 9, 1998, 112 Stat. 495; Pub. L. 106-117, title V, §502(b), Nov. 30, 1999, 113 Stat. 1574; Pub. L. 106-118, §5, Nov. 30, 1999, 113 Stat. 1602; Pub. L. 107-94, §5, Dec. 21, 2001, 115 Stat. 901; Pub. L. 107-330, title III, §309(d), Dec. 6, 2002, 116 Stat. 2830; Pub. L. 108-183, title I, §101(b), Dec. 16, 2003, 117 Stat. 2652; Pub. L. 108-454, title III, §§301(a), 307(d), Dec. 10, 2004, 118 Stat. 3610, 3613; Pub. L. 109-111, §2(d), Nov. 22, 2005, 119 Stat. 2363; Pub. L. 109-233, title V, §502(3), June 15, 2006, 120 Stat.

415; Pub. L. 109-361, §4, Oct. 16, 2006, 120 Stat. 2063; Pub. L. 109-444, §9(d), Dec. 21, 2006, 120 Stat. 3315; Pub. L. 109-461, title X, §§1005(d), 1006(b), Dec. 22, 2006, 120 Stat. 3467, 3468; Pub. L. 110-324, §3(d), Sept. 24, 2008, 122 Stat. 3551; Pub. L. 111-37, §3(d), June 30, 2009, 123 Stat. 1929; Pub. L. 111-275, title VI, §602, Oct. 13, 2010, 124 Stat. 2884.)

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates of Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2010—Subsec. (f)(1). Pub. L. 111-275, §602(1), inserted “(as increased from time to time under paragraph (4))” after “\$250”.

Subsec. (f)(4), (5). Pub. L. 111-275, §602(2), (3), added par. (4) and redesignated former par. (4) as (5).

2009—Subsec. (a)(1). Pub. L. 111-37, §3(d)(1)(A), substituted “\$1,154” for “\$1,091”.

Subsec. (a)(2). Pub. L. 111-37, §3(d)(1)(B), substituted “\$246” for “\$233”.

Subsec. (a)(3). Pub. L. 111-37, §3(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted “\$1,419” for “\$1,342”, and, in footnote 2, substituted “\$2,643” for “\$2,499”.

Subsecs. (b), (c). Pub. L. 111-37, §3(d)(3)(A), (B), substituted “\$286” for “\$271”.

Subsec. (d). Pub. L. 111-37, §3(d)(3)(C), substituted “\$135” for “\$128”.

2008—Subsec. (a)(1). Pub. L. 110-324, §3(d)(1)(A), substituted “\$1,091” for “\$1,067”.

Subsec. (a)(2). Pub. L. 110-324, §3(d)(1)(B), substituted “\$233” for “\$228”.

Subsec. (a)(3). Pub. L. 110-324, §3(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted “sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard,” for “Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard,” and “\$1,342” for “\$1,312”, and, in footnote 2, substituted “Vice-Chairman” for “Vice Chairman” and “\$2,499” for “\$2,443”.

Subsecs. (b), (c). Pub. L. 110-324, §3(d)(3)(A), (B), substituted “\$271” for “\$265”.

Subsec. (d). Pub. L. 110-324, §3(d)(3)(C), substituted “\$128” for “\$126”.

2006—Pub. L. 109-461, §1006(b), provided that as of the enactment of Pub. L. 109-461, the amendments made by Pub. L. 109-444 were deemed for all purposes not to have taken effect and that Pub. L. 109-444 ceased to be in effect. See Amendment notes below and section 1006(b) of Pub. L. 109-461, set out as a Coordination of Provisions With Pub. L. 109-444 note under section 101 of this title.

Subsec. (a)(1). Pub. L. 109-461, §1005(d)(1)(A), substituted “\$1,067” for “\$1,033”.

Pub. L. 109-444, §9(d)(1)(A), which substituted “\$1,067” for “\$1,033”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (a)(2). Pub. L. 109-461, §1005(d)(1)(B), substituted “\$228” for “\$221”.

Pub. L. 109-444, §9(d)(1)(B), which substituted “\$228” for “\$221”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (a)(3). Pub. L. 109-461, §1005(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted “Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard” for “sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard” and “\$1,312” for “\$1,271”, and, in footnote 2, substituted “\$2,443” for “\$2,365”.

Pub. L. 109-444, §9(d)(2), which generally upgraded monthly rates for all pay grades, in footnote 1, substituted “Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard” for “sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard” and “\$1,312” for “\$1,271”, and, in footnote 2, substituted “\$2,443” for “\$2,365”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (b). Pub. L. 109-461, §1005(d)(3)(A), substituted “\$265” for “\$257”.

Pub. L. 109-444, §9(d)(3)(A), which substituted “\$265” for “\$257”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (c). Pub. L. 109-461, §1005(d)(3)(B), substituted “\$265” for “\$257”.

Pub. L. 109-444, §9(d)(3)(B), which substituted “\$265” for “\$257”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (c)(2). Pub. L. 109-233 substituted “blind, or so nearly blind or significantly disabled as to” for “helpless or blind, or so nearly helpless or blind as to”.

Subsec. (d). Pub. L. 109-461, §1005(d)(3)(C), substituted “\$126” for “\$122”.

Pub. L. 109-444, §9(d)(3)(C), which substituted “\$126” for “\$122”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsecs. (e), (f). Pub. L. 109-361 redesignated subsec. (e) relating to increased dependency and indemnity compensation as (f).

2005—Subsec. (a)(1). Pub. L. 109-111, §2(d)(1)(A), substituted “\$1,033” for “\$967”.

Subsec. (a)(2). Pub. L. 109-111, §2(d)(1)(B), substituted “\$221” for “\$208”.

Subsec. (a)(3). Pub. L. 109-111, §2(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted “\$1,271” for “\$1,189”, and, in footnote 2, substituted “\$2,365” for “\$2,213”.

Subsec. (b). Pub. L. 109-111, §2(d)(3)(A), substituted “\$257” for “\$241”.

Subsec. (c). Pub. L. 109-111, §2(d)(3)(B), substituted “\$257” for “\$241”.

Subsec. (d). Pub. L. 109-111, §2(d)(3)(C), substituted “\$122” for “\$115”.

2004—Subsec. (a)(1). Pub. L. 108-454, §307(d)(1)(A), substituted “\$967” for “\$948”.

Subsec. (a)(2). Pub. L. 108-454, §307(d)(1)(B), substituted “\$208” for “\$204”.

Subsec. (a)(3). Pub. L. 108-454, §307(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted “\$1,189” for “\$1,165”, and, in footnote 2, substituted “\$2,213” for “\$2,168”.

Subsec. (b). Pub. L. 108-454, §307(d)(3), substituted “\$241” for “\$237”.

Subsec. (c). Pub. L. 108-454, §307(d)(4), substituted “\$241” for “\$237”.

Subsec. (d). Pub. L. 108-454, §307(d)(5), substituted “\$115” for “\$113”.

Subsec. (e). Pub. L. 108-454, §301(a), added subsec. (e) relating to increased dependency and indemnity compensation.

2003—Subsec. (e). Pub. L. 108-183 added subsec. (e).

2002—Subsec. (a)(1). Pub. L. 107-330, §309(d)(1)(A), substituted “\$948” for “\$935”.

Subsec. (a)(2). Pub. L. 107-330, §309(d)(1)(B), substituted "\$204" for "\$202".

Subsec. (a)(3). Pub. L. 107-330, §309(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted "sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard" for "Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard" and "\$1,165" for "\$1,149", and, in footnote 2, substituted "\$2,168" for "\$2,139".

Subsec. (b). Pub. L. 107-330, §309(d)(3), substituted "\$237" for "\$234".

Subsec. (c). Pub. L. 107-330, §309(d)(4), substituted "\$237" for "\$234".

Subsec. (d). Pub. L. 107-330, §309(d)(5), substituted "\$113" for "\$112".

2001—Subsec. (a)(1). Pub. L. 107-94, §5(a)(1), substituted "\$935" for "\$881".

Subsec. (a)(2). Pub. L. 107-94, §5(a)(2), substituted "\$202" for "\$191".

Subsec. (a)(3). Pub. L. 107-94, §5(b), generally upgraded monthly rates for all pay grades, in footnote 1, substituted "Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer" for "sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer" and "\$1,149" for "\$1,082", and, in footnote 2, substituted "\$2,139" for "\$2,013".

Subsec. (b). Pub. L. 107-94, §5(c), substituted "\$234" for "\$222".

Subsec. (c). Pub. L. 107-94, §5(d), substituted "\$234" for "\$222".

Subsec. (d). Pub. L. 107-94, §5(e), substituted "\$112" for "\$107".

1999—Subsec. (a)(1). Pub. L. 106-118, §5(a)(1), substituted "\$881" for "\$850".

Subsec. (a)(2). Pub. L. 106-118, §5(a)(2), substituted "\$191" for "\$185".

Subsec. (a)(3). Pub. L. 106-118, §5(b), generally upgraded monthly rates for all pay grades, substituted "section 1302 of this title" for "section 402 of this title" and "\$1,082" for "\$1,044" in footnote 1, and substituted "section 1302 of this title" for "section 402 of this title" and "\$2,013" for "\$1,941" in footnote 2.

Subsecs. (b), (c). Pub. L. 106-118, §5(c), (d), substituted "\$222" for "\$215".

Subsec. (d). Pub. L. 106-118, §5(e), substituted "\$107" for "\$104".

Pub. L. 106-117 struck out subsec. (e) which provided that the termination by death, divorce, or annulment of the remarriage of the surviving spouse of a veteran or cessation of a surviving spouse living with another person would not bar the furnishing of dependency or indemnity compensation in the absence of fraud.

1998—Subsec. (e). Pub. L. 105-178 added subsec. (e).

1997—Subsec. (a)(1). Pub. L. 105-98, §5(a)(1), substituted "\$850" for "\$769".

Subsec. (a)(2). Pub. L. 105-98, §5(a)(2), substituted "\$185" for "\$169".

Subsec. (a)(3). Pub. L. 105-98, §5(b), inserted table entries for pay grades E-1 to E-6, generally upgraded monthly rates in table for pay grades E-7 to E-9, W-1 to W-4, and O-1 to O-10, substituted "section 402 of this title" for "section 1302 of this title" and "\$1,044" for "\$943" in footnote 1, and substituted "section 402 of this title" for "section 1302 of this title" and "\$1,941" for "\$1,753" in footnote 2.

Subsec. (b). Pub. L. 105-98, §5(c), substituted "\$215 for each such child." for "\$100 for each such child during fiscal year 1993, \$150 for each such child during fiscal year 1994, and \$200 for each such child thereafter."

Subsec. (c). Pub. L. 105-98, §5(d), substituted "\$215" for "\$195".

Subsec. (d). Pub. L. 105-98, §5(e), substituted "\$104" for "\$95".

1993—Subsec. (a)(1). Pub. L. 103-140, §5(1), substituted "\$769" for "\$750".

Subsec. (a)(2). Pub. L. 103-140, §5(2), substituted "\$169" for "\$165".

Subsec. (a)(3). Pub. L. 103-140, §5(3), generally upgraded monthly rates in table for pay grades E-7 to E-9, W-1 to W-4, and O-1 to O-10, struck out table entries for pay grades E-1 to E-6, and substituted "\$943" for "\$934" in footnote 1 and "section 1302" for "section 402" and "\$1,753" for "\$1,744" in footnote 2.

Pub. L. 103-78, §4(1), generally upgraded monthly rates for all pay grades in table.

Subsec. (c). Pub. L. 103-140, §5(4), substituted "\$195" for "\$191".

Pub. L. 103-78, §4(2), substituted "\$191" for "\$185".

Subsec. (d). Pub. L. 103-140, §5(5), substituted "\$95" for "\$93".

Pub. L. 103-78, §4(3), substituted "\$93" for "\$90".

1992—Subsec. (a). Pub. L. 102-568, §102(a), added pars. (1) to (3) before table and struck out former provision before table which read as follows: "Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:"

Subsec. (b). Pub. L. 102-568, §102(b), substituted "\$100 for each such child during fiscal year 1993, \$150 for each such child during fiscal year 1994, and \$200 for each such child thereafter" for "\$71 for each such child".

1991—Pub. L. 102-83, §5(a), renumbered section 411 of this title as this section.

Subsec. (a). Pub. L. 102-152, §5(1), generally upgraded monthly rates for all pay grades.

Pub. L. 102-83, §5(c)(1), substituted "1302" for "402" in footnotes 1 and 2.

Pub. L. 102-3, §5(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 102-152, §5(2), substituted "\$71" for "\$68".

Pub. L. 102-3, §5(2), substituted "\$68" for "\$65".

Subsec. (c). Pub. L. 102-152, §5(3), substituted "\$185" for "\$178".

Pub. L. 102-3, §5(3), substituted "\$178" for "\$169".

Subsec. (d). Pub. L. 102-152, §5(4), substituted "\$90" for "\$87".

Pub. L. 102-3, §5(4), substituted "\$87" for "\$83".

1989—Subsec. (a). Pub. L. 101-237, §104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 101-237, §104(2), substituted "\$65" for "\$62".

Subsec. (c). Pub. L. 101-237, §104(3), substituted "\$169" for "\$161".

Subsec. (d). Pub. L. 101-237, §104(4), substituted "\$83" for "\$79".

1988—Subsec. (a). Pub. L. 100-687, §1104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 100-687, §1104(2), substituted "\$62" for "\$60".

Subsec. (c). Pub. L. 100-687, §1104(3), substituted "\$161" for "\$155".

Subsec. (d). Pub. L. 100-687, §1104(4), substituted "\$79" for "\$76".

1987—Subsec. (a). Pub. L. 100-227, §104(1), generally upgraded monthly rates for all pay grades.

Pub. L. 100-180 inserted "or Vice Chairman" in footnote 2 after table.

Subsec. (b). Pub. L. 100-227, §104(2), substituted "\$60" for "\$58".

Subsec. (c). Pub. L. 100-227, §104(3), substituted "\$155" for "\$149".

Subsec. (d). Pub. L. 100-227, §104(4), substituted "\$76" for "\$73".

1986—Subsec. (a). Pub. L. 99-576, §104(1), generally upgraded monthly rates for all pay grades.

Pub. L. 99-238, §104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 99-576, §104(2), substituted "\$58" for "\$57".

Pub. L. 99-238, §104(2), substituted "\$57" for "\$55".

Subsec. (c). Pub. L. 99-576, §104(3), substituted "\$149" for "\$147".

- Pub. L. 99-238, §104(3), substituted "\$147" for "\$143".
- Subsec. (d). Pub. L. 99-576, §104(4), substituted "\$73" for "\$72".
- Pub. L. 99-238, §104(4), substituted "\$72" for "\$70".
- 1984—Subsec. (a). Pub. L. 98-543, §104(a), generally upgraded monthly rates for all pay grades.
- Pub. L. 98-223, §104(a), generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 98-543, §104(b), substituted "\$55" for "\$53".
- Pub. L. 98-223, §104(b), substituted "\$53" for "\$51".
- Subsec. (c). Pub. L. 98-543, §104(c), substituted "\$143" for "\$139".
- Pub. L. 98-223, §104(c), substituted "\$139" for "\$134".
- Subsec. (d). Pub. L. 98-543, §104(d), substituted "\$70" for "\$68".
- Pub. L. 98-223, §104(d), substituted "\$68" for "\$66".
- 1982—Subsec. (a). Pub. L. 97-306, §§104(a), 107, 108, generally upgraded monthly rates for all pay grades, and repealed amendments made by Pub. L. 97-253, §405(e)(1), eff. Oct. 1, 1982.
- Pub. L. 97-253, §405(e)(1), (h), eff. Jan. 1, 1983, lowered monthly rates for all grades and for positions mentioned in footnotes by \$1, except for grades E-3 through E-7.
- Subsec. (b). Pub. L. 97-306, §§104(b), 107, 108, substituted "\$51" for "\$48", and repealed amendment made by Pub. L. 97-253, §405(e)(2), eff. Oct. 1, 1982.
- Pub. L. 97-253, §405(e)(2), (h), eff. Jan. 1, 1983, substituted "\$47" for "\$48" after "shall be increased by".
- Subsec. (c). Pub. L. 97-306, §§104(c), 107, 108, substituted "\$134" for "\$125", and repealed amendment made by Pub. L. 97-253, §405(e)(3), eff. Oct. 1, 1982.
- Pub. L. 97-253, §405(e)(3), (h), eff. Jan. 1, 1983, substituted "\$124" for "\$125".
- Subsec. (d). Pub. L. 97-306, §§104(d), 107, 108, substituted "\$66" for "\$62", and repealed amendment made by Pub. L. 97-253, §405(e)(4), eff. Oct. 1, 1982.
- Pub. L. 97-253, §405(e)(4), (h), eff. Jan. 1, 1983, substituted "\$61" for "\$62" after "shall be increased by".
- 1981—Subsec. (a). Pub. L. 97-66, §201(a), generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 97-66, §201(b), increased from \$43 to \$48 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 97-66, §201(c), increased monthly rate of compensation from \$112 to \$125.
- Subsec. (d). Pub. L. 97-66, §201(d), increased monthly rate of compensation from \$56 to \$62.
- 1980—Subsec. (a). Pub. L. 96-385, §201(a), generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 96-385, §201(b), increased from \$38 to \$43 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 96-385, §201(c), increased monthly rate of compensation from \$98 to \$112.
- Subsec. (d). Pub. L. 96-385, §201(d), increased monthly rate of compensation from \$49 to \$56.
- 1979—Subsec. (a). Pub. L. 96-128, §201(a), generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 96-128, §201(b), increased from \$35 to \$38 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 96-128, §201(c), increased monthly rate of compensation from \$89 to \$98.
- Subsec. (d). Pub. L. 96-128, §201(d), increased monthly rate from \$45 to \$49.
- 1978—Subsec. (a). Pub. L. 95-479, §201(a), generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 95-479, §201(b), increased from \$33 to \$35 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 95-479, §201(c), increased monthly rate of compensation from \$83 to \$89.
- Subsec. (d). Pub. L. 95-479, §201(d), added subsec. (d).
- 1977—Subsec. (a). Pub. L. 95-117 generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 95-117 increased from \$31 to \$33 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 95-117 increased monthly rate of compensation payable to a surviving spouse from \$78 to \$83.
- 1976—Pub. L. 94-433 substituted "surviving spouse" for "widow" in section catchline.
- Subsec. (a). Pub. L. 94-433 substituted "surviving spouse" for "widow" and "pay grade of the person upon whose death entitlement is predicated" for "pay grade of her deceased husband" in text and "surviving spouse's rate" for "widow's rate" in footnotes 1 and 2 and generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 94-433 substituted "surviving spouse" for "widow" in two places and increased from \$29 to \$31 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 94-433 substituted "surviving spouse" and "spouse" for "widow" and "she" and increased monthly rate of compensation payable from \$72 to \$78.
- 1975—Subsec. (a). Pub. L. 94-71 generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 94-71 increased from \$26 to \$29 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 94-71 increased monthly rate of compensation payable to a widow from \$64 to \$72.
- 1974—Subsec. (a). Pub. L. 93-295 generally upgraded monthly rates for all pay grades.
- Subsec. (b). Pub. L. 93-295 increased from \$22 to \$26 monthly dependency and indemnity compensation rate for each child.
- Subsec. (c). Pub. L. 93-295 increased monthly rate of compensation payable to the widow from \$55 to \$64.
- 1972—Subsec. (a). Pub. L. 92-455 substituted in footnote 1 of table "chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard," for "chief master sergeant of the Air Force, or sergeant major of the Marine Corps."
- 1971—Subsec. (a). Pub. L. 92-197 generally upgraded monthly rate for all pay grades.
- Subsec. (b). Pub. L. 92-197 increased dependency and indemnity compensation rate by \$22 per month for each child from \$20.
- Subsec. (c). Pub. L. 92-197 reenacted subsec. (c) without change.
- 1970—Subsec. (c). Pub. L. 91-588 substituted "\$55" for "\$50".
- 1969—Subsec. (a). Pub. L. 91-96 substituted provisions setting forth dependency and indemnity compensation table based on the pay grade of the deceased husband for provisions that dependency and indemnity compensation was to be paid at a monthly rate equal to \$120 plus 12 per centum of basic pay of the deceased husband.
- Subsec. (b). Pub. L. 91-96 substituted provisions which increased dependency and indemnity compensation rate by \$20 per month for each child below the age of eighteen of a deceased veteran for provisions which increased dependency and indemnity compensation rate by \$28 per month for each child of a deceased veteran in excess of one where there was a widow and two or more children below the age of eighteen and the total of monthly benefits they were receiving was less than a determined amount.
- Subsec. (c). Pub. L. 91-96 substituted provisions increasing dependency and indemnity compensation rate by \$50 per month for widows that are patients in nursing homes, or are helpless or blind for provisions authorizing Administrator to increase to next highest dollar any fraction of a dollar payable under former subsecs. (a) and (b).
- Subsecs. (d) to (f). Pub. L. 91-96 struck out subsecs. (d) to (f) which provided for determination of amount of additional compensation payable to a widow under former provisions of subsec. (b).
- Subsec. (d)(3). Pub. L. 91-24 substituted "section 228c-1(h)" for "section 228c-1(i)".
- 1963—Subsec. (a). Pub. L. 88-134 increased from \$112 to \$120 the monthly rate of widow's dependency and indemnity compensation.

Subsec. (b). Pub. L. 88-21 substituted “\$28” for “\$25”. 1961—Subsec. (d)(1). Pub. L. 87-268 substituted “section 412(a)” for “section 412”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-37 effective Dec. 1, 2008, see section 3(g) of Pub. L. 111-37, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-324 effective Dec. 1, 2007, see section 3(f) of Pub. L. 110-324, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-111 effective Dec. 1, 2005, see section 2(f) of Pub. L. 109-111, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-454, title III, §301(b), Dec. 10, 2004, 118 Stat. 3610, provided that: “Subsection (e) of section 1311 of title 38, United States Code, as added by subsection (a), shall take effect with respect to payments for the first month beginning after the date of the enactment of this Act [Dec. 10, 2004].”

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-183 effective Jan. 1, 2004, see section 101(c) of Pub. L. 108-183, set out as a note under section 103 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-94 effective Dec. 1, 2001, see section 7 of Pub. L. 107-94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106-118 effective Dec. 1, 1999, see section 7 of Pub. L. 106-118, set out as a note under section 1114 of this title.

Amendment by Pub. L. 106-117 effective on first day of first month beginning after Nov. 1999, see section 502(c) of Pub. L. 106-117, set out as a note under section 103 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-178, title VIII, §8207(b), June 9, 1998, 112 Stat. 495, provided that: “No payment may be made by reason of section 1311(e) of title 38, United States Code, as added by subsection (a) [amending this section], for any month before October 1998.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-98 effective Dec. 1, 1997, see section 7 of Pub. L. 105-98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-140 effective Dec. 1, 1993, see section 7 of Pub. L. 103-140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 102(c) of Pub. L. 102-568 provided that: “The amendments made by this section [amending this section] shall take effect on January 1, 1993.”

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102-152 effective Dec. 1, 1991, see section 7 of Pub. L. 102-152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102-3 effective Jan. 1, 1991, see section 7 of Pub. L. 102-3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-237 effective Dec. 1, 1989, see section 106 of Pub. L. 101-237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100-687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-227 effective Dec. 1, 1987, see section 107 of Pub. L. 100-227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99-576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99-238 effective Dec. 1, 1985, see section 107 of Pub. L. 99-238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-543 effective Dec. 1, 1984, see section 107 of Pub. L. 98-543, set out as a note under section 1114 of this title.

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.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-306 effective Oct. 1, 1982, see section 108 of Pub. L. 97-306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96-128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95-479, set out as a note under section 1114 of this title.

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 1101 of Pub. L. 94-71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective May 1, 1974, see section 401 of Pub. L. 93-295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 10 of Pub. L. 92-197 provided that: "This Act [amending this section and sections 321, 322, 341, 413 to 415, 417 and 724 [now 1121, 1122, 1141, 1313 to 1315, 1317, and 1924] of this title and enacting provisions set out as note under section 1317 of this title] shall take effect on January 1, 1972."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91-588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91-96, set out as a note under section 1302 of this title.

EFFECTIVE DATE OF 1963 AMENDMENTS

Pub. L. 88-134, § 2, Oct. 5, 1963, 77 Stat. 223, provided that: "The amendment made by this Act [amending this section] shall take effect on the effective date of the Uniformed Services Pay Act of 1963 [effective Oct. 1, 1963; see Short Title note set out under section 201 of Title 37, Pay and Allowances of the Uniformed Services] or on January 1, 1964, whichever first occurs."

Pub. L. 88-21, § 5, May 15, 1963, 77 Stat. 17, provided that: "The amendments made by this Act [amending this section and sections 413 to 415 [now 1313 to 1315] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [May 15, 1963]."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-268 effective Oct. 1, 1961, see section 3 of Pub. L. 87-268, set out as a note under section 1312 of this title.

REPEAL

Pub. L. 97-253, title IV, § 405(e), Sept. 8, 1982, 96 Stat. 804, 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.

SAVINGS PROVISION

Pub. L. 88-132, § 13(a), Oct. 2, 1963, 77 Stat. 218, provided that: "The enactment of this Act [see Short Title note under section 201 of Title 37, Pay and Allowances of the Uniformed Services] does not reduce the rate of dependency and indemnity compensation under section 411 [now 1311] of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Oct. 1, 1963] or which thereafter becomes payable for that day by reason of a subsequent determination."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

RETROACTIVE BENEFITS PROHIBITED

For provisions relating to prohibition of retroactive benefits by reason of amendments to this section by Pub. L. 108-183, see section 101(d) of Pub. L. 108-183, set out as a note under section 103 of this title.

PAYMENT FOR IMPLEMENTATION OF REVISIONS

Pub. L. 102-568, title I, § 102(d), Oct. 29, 1992, 106 Stat. 4322, provided that the costs of implementing, during

fiscal years 1993 and 1994, any revisions in the payment of dependency and indemnity compensation to surviving spouses under this section that result from the amendments made by section 102(a) and (b) of Pub. L. 102-568 to this section, were to be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

§ 1312. Benefits in certain cases of in-service or service-connected deaths

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 214 of the Social Security Act (42 U.S.C. 414)) at the time of such veteran's death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 202 of the Social Security Act (42 U.S.C. 402) on the basis of such veteran's wages and self-employment income but who would, upon application therefor, be entitled to such benefits if such veteran had been fully and currently insured at the time of such veteran's death;

the Secretary shall pay for such month benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under title II of the Social Security Act (42 U.S.C. 401 et seq.), if such veteran had been both fully and currently insured at the time of such veteran's death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Secretary.

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter to a surviving spouse who has children is less than the amount of pension which would be payable to (1) such surviving spouse, or (2) such children if the surviving spouse were not entitled, under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Secretary shall pay dependency and indemnity compensation to such surviving spouse in an amount equal to such amount of pension.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1128, § 412; Pub. L. 87-268, § 1(a), Sept. 21, 1961, 75 Stat. 566; Pub. L. 89-466, June 22, 1966, 80 Stat. 217; Pub. L. 94-433, title IV, § 405(9), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98-223, title II, § 213(2), Mar. 2, 1984, 98 Stat. 46; Pub. L. 102-54, § 14(b)(3), June 13, 1991, 105 Stat. 283; renumbered § 1312 and amended Pub. L. 102-83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 214 and 202 of the Social