

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, §3106; Pub. L. 99-576, title VII, §701(73), Oct. 28, 1986, 100 Stat. 3297; renumbered §5306, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), Aug. 6, 1991, 105 Stat. 403; Pub. L. 103-446, title V, §503, Nov. 2, 1994, 108 Stat. 4663.)

Editorial Notes

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-446 added subsec. (c).
1991—Pub. L. 102-40 renumbered section 3106 of this title as this section.

Subsec. (a). Pub. L. 102-83 substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

1986—Subsec. (a). Pub. L. 99-576 substituted “the” for “his” before “right” in first sentence.

§ 5307. Apportionment of benefits

(a) All or any part of the compensation, pension, or emergency officers’ retirement pay payable on account of any veteran may—

(1) if the veteran is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof, be apportioned on behalf of the veteran’s spouse, children, or dependent parents; and

(2) if the veteran is not living with the veteran’s spouse, or if the veteran’s children are not in the custody of the veteran, be apportioned as may be prescribed by the Secretary.

(b) Where any of the children of a deceased veteran are not in the custody of the veteran’s surviving spouse, the pension, compensation, or dependency and indemnity compensation otherwise payable to the surviving spouse may be apportioned as prescribed by the Secretary.

(c) If a veteran is not living with the veteran’s spouse, or if any of the veteran’s children are not in the custody of the veteran, any subsistence allowance payable to the veteran under chapter 31 of this title or that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title may be apportioned as may be prescribed by the Secretary.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, §3107; Pub. L. 92-540, title V, §505, Oct. 24, 1972, 86 Stat. 1099; Pub. L. 98-160, title VII, §703(2), Nov. 21, 1983, 97 Stat. 1010; renumbered §5307, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3107 of this title as this section.

Subsecs. (a)(2), (b), (c). Pub. L. 102-83 substituted “Secretary” for “Administrator”.

1983—Subsec. (a)(1). Pub. L. 98-160, §703(2)(A), substituted “the veteran’s spouse” for “his wife”.

Subsec. (a)(2). Pub. L. 98-160, §703(2)(A)-(C), substituted “the veteran’s spouse” for “his wife”, “the veteran’s children” for “his children”, and “the custody of the veteran” for “his custody”.

Subsec. (b). Pub. L. 98-160, §703(2)(D), substituted “surviving spouse” for “widow” in two places.

Subsec. (c). Pub. L. 98-160, §703(2)(A)-(C), (E), substituted “the veteran’s spouse” for “his wife”, “the

veteran’s children” for “his children”, “the custody of the veteran” for “his custody”, and “payable to the veteran” for “payable to him”.

1972—Subsec. (c). Pub. L. 92-540 inserted provisions relating to that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92-540, set out as a note under section 4101 of this title.

§ 5308. Withholding benefits of persons in territory of the enemy

(a) When any alien entitled to gratuitous benefits under laws administered by the Secretary is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except upon the filing of a new claim, accompanied by evidence satisfactory to the Secretary showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 5309 of this title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Secretary, in the Secretary’s discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such alien were dead.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1231, §3108; Pub. L. 99-576, title VII, §701(74), Oct. 28, 1986, 100 Stat. 3297; renumbered §5308 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3108 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

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

Pub. L. 102-40, §402(d)(1), substituted “5309” for “3109”.

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

1986—Subsec. (c). Pub. L. 99-576 substituted “the Administrator’s” for “his” in first sentence, and “the dependent” for “he” in second sentence.

§ 5309. Payment of certain withheld benefits

(a) Any person who, but for section 5308 of this title, was entitled to benefits under any of the laws administered by the Secretary, whose

award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 3329 and 3330 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 5308, or withheld (including the amount of any checks covered on such person's account into the Treasury as miscellaneous receipts together with any amount to such person's credit in the special-deposit account) pursuant to sections 3329 and 3330 of title 31. The Secretary shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Secretary, shall reimburse the appropriations of the Department from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because such person was a citizen or subject of Germany or Japan residing in Germany or Japan.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1232, §3109; Pub. L. 97-258, §3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99-576, title VII, §701(75), Oct. 28, 1986, 100 Stat. 3297; renumbered §5309 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102-83, §4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

Editorial Notes

AMENDMENTS

1991—Pub. L. 102-40, §402(b)(1), renumbered section 3109 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in last sentence.

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" in last sentence.

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

Pub. L. 102-40, §402(d)(1), substituted "5308" for "3108" in two places in first sentence.

1986—Subsec. (a). Pub. L. 99-576, §701(75)(A), substituted "such person's" for "his" in two places.

Subsec. (b). Pub. L. 99-576, §701(75)(B), substituted "such person" for "he".

1982—Subsec. (a). Pub. L. 97-258 substituted "sections 3329 and 3330 of title 31" for "sections 123-128 of title 31" wherever appearing.

§ 5310. Payment of benefits for month of death

(a) IN GENERAL.—(1) A surviving spouse of a veteran is entitled to a benefit for the month of the veteran's death if—

(A) at the time of the veteran's death, the veteran was receiving compensation or pension under chapter 11 or 15 of this title; or

(B) the veteran is determined for purposes of section 5121 or 5121A of this title as having been entitled to receive compensation or pension under chapter 11 or 15 of this title for the month of the veteran's death.

(2) The amount of the benefit under paragraph (1) is the amount that the veteran would have received under chapter 11 or 15 of this title, as the case may be, for the month of the veteran's death had the veteran not died.

(b) CLAIMS PENDING ADJUDICATION.—If a claim for entitlement to compensation or additional compensation under chapter 11 of this title or pension or additional pension under chapter 15 of this title is pending at the time of a veteran's death and the check or other payment issued to the veteran's surviving spouse under subsection (a) is less than the amount of the benefit the veteran would have been entitled to for the month of death pursuant to the adjudication of the pending claim, an amount equal to the difference between the amount to which the veteran would have been entitled to receive under chapter 11 or 15 of this title for the month of the veteran's death had the veteran not died and the amount of the check or other payment issued to the surviving spouse shall be treated in the same manner as an accrued benefit under section 5121 of this title.

(Added Pub. L. 87-825, §4(a), Oct. 15, 1962, 76 Stat. 950, §3110; amended Pub. L. 98-160, title VII, §703(3), Nov. 21, 1983, 97 Stat. 1010; renumbered §5310 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 104-275, title V, §506(a), Oct. 9, 1996, 110 Stat. 3343; Pub. L. 105-114, title IV, §401(f), Nov. 21, 1997, 111 Stat. 2294; Pub. L. 112-154, title V, §507(a), Aug. 6, 2012, 126 Stat. 1194.)

Editorial Notes

AMENDMENTS

2012—Pub. L. 112-154, §507(a), amended section generally. Prior to amendment, text read as follows:

"(a) If, in accordance with the provisions of section 5110(d) of this title, a surviving spouse is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran's death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

"(b)(1) If the surviving spouse of a veteran who was in receipt of compensation or pension at the time of death is not entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which the veteran's death occurs, that surviving spouse shall be entitled to a benefit for that month in the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

"(2) If (notwithstanding section 5112(b)(1) of this title) a check or other payment is issued to, and in the name of, the deceased veteran as a benefit payment under chapter 11 or 15 of this title for the month in which death occurs, that check or other payment (A) shall be treated for all purposes as being payable to the surviving spouse, and (B) if that check or other payment is negotiated or deposited, shall be considered to be the benefit to which the surviving spouse is entitled under paragraph (1). However, if such check or other payment is in an amount less than the amount of the benefit under paragraph (1), the unpaid amount shall be treated in the same manner as an accrued benefit under section 5121 of this title."

1997—Subsec. (b)(2). Pub. L. 105-114 substituted "under paragraph (1)" for "under this paragraph" before period at end of first sentence.

1996—Pub. L. 104-275 designated existing provisions as subsec. (a) and added subsec. (b).