

The words “section 32(b)(1) of title 29” are substituted for “section 33(a) (4) of title 29” on authority of the Act of Aug. 3, 1954, ch. 655, § 2, 68 Stat. 652. Reference is limited to section 32(b)(1) since section 32(b) (2), (3) is obsolete.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Editorial Notes

REFERENCES IN TEXT

Chapter 4 of title 29, referred to in subsec. (a), refers to the Vocational Rehabilitation Act, act June 2, 1920, ch. 219, 41 Stat. 735, as amended. Section 32(b)(1) of title 29, also referred to in subsec. (a) (enacted Sept. 6, 1966), did not reflect amendment of section 32(b) by Pub. L. 89-333 § 2(a), Nov. 8, 1965, 79 Stat. 1282, which eliminated obsolete pars. (2) and (3) and redesignated par. (1) provisions as subsec. (b) and amended such subsection. Section 32(b) of title 29, refers to section 2(b) of act June 2, 1920, as amended. Such provisions were repealed by former section 500(a) of Pub. L. 93-112, title V, Sept. 26, 1973, 87 Stat. 390, and pursuant to former section 500(a) of Pub. L. 93-112, which also provided that references to the Vocational Rehabilitation Act in other provisions of law were to be deemed a reference to the Rehabilitation Act of 1973, and were covered by sections 701 et seq. and 731(a), respectively, of Title 29, Labor.

AMENDMENTS

1974—Pub. L. 93-416 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to cases where injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions and offices (relating to Rehabilitation Act of 1973) of Secretary and Department of Health, Education, and Welfare to Secretary and Department of Education, see section 3441 of Title 20, Education.

§ 8105. Total disability

(a) If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of his monthly pay, which is known as his basic compensation for total disability.

(b) The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes, is *prima facie* permanent total disability.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 535.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 753.	Sept. 7, 1916, ch. 458, § 3, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 102, 63 Stat. 855.

In subsection (a), the words “Except as otherwise provided in sections 751-756, 757-781, 783-791, and 793 of this title” are omitted as surplusage.

In subsection (b), the words “Loss, or” are omitted as included in “loss of use of”. The words “or the loss of sight of both eyes” are substituted for “or both eyes or the sight thereof”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8106. Partial disability

(a) If the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability.

(b) The Secretary of Labor may require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

(1) fails to make an affidavit or report when required; or

(2) knowingly omits or understates any part of his earnings;

forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.

(c) A partially disabled employee who—

(1) refuses to seek suitable work; or

(2) refuses or neglects to work after suitable work is offered to, procured by, or secured for him;

is not entitled to compensation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 536.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 754.	Sept. 7, 1916, ch. 458, § 4, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 103(a), 63 Stat. 855.

In subsection (a), the words “Except as otherwise provided in sections 751-756, 757-781, 783-791, and 793 of this title” are omitted as surplusage.

In subsection (b), the word “remuneration” is omitted as covered by the word “earnings”.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8107. Compensation schedule

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, the em-

ployee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66⅔ percent of his monthly pay. The basic compensation is—

- (1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;
 - (2) payable regardless of whether the disability also involves another impairment of the body; and
 - (3) in addition to compensation for temporary total or temporary partial disability.
- (b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by—

- (1) section 8105 of this title if the disability is total; or
- (2) section 8106 of this title if the disability is partial.

(c) The compensation schedule is as follows:

- (1) Arm lost, 312 weeks' compensation.
- (2) Leg lost, 288 weeks' compensation.
- (3) Hand lost, 244 weeks' compensation.
- (4) Foot lost, 205 weeks' compensation.
- (5) Eye lost, 160 weeks' compensation.
- (6) Thumb lost, 75 weeks' compensation.
- (7) First finger lost, 46 weeks' compensation.
- (8) Great toe lost, 38 weeks' compensation.
- (9) Second finger lost, 30 weeks' compensation.
- (10) Third finger lost, 25 weeks' compensation.
- (11) Toe other than great toe lost, 16 weeks' compensation.
- (12) Fourth finger lost, 15 weeks' compensation.
- (13) Loss of hearing—
 - (A) complete loss of hearing of one ear, 52 weeks' compensation; or
 - (B) complete loss of hearing of both ears, 200 weeks' compensation.

(14) Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye.

(15) Compensation for loss of more than one phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half of the compensation for loss of the entire digit.

(16) If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively.

(17) Compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is proportioned to the loss of use of the hand or foot occasioned thereby.

(18) Compensation for permanent total loss of use of a member is the same as for loss of the member.

(19) Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction.

(20) In case of loss of use of more than one member or parts of more than one member as

enumerated by this schedule, the compensation is for loss of use of each member or part thereof, and the awards run consecutively. However, when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears.

(21) For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed \$3,500 shall be awarded in addition to any other compensation payable under this schedule.

(22) For permanent loss or loss of use of any other important external or internal organ of the body as determined by the Secretary, proper and equitable compensation not to exceed 312 weeks' compensation for each organ so determined shall be paid in addition to any other compensation payable under this schedule.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 536; Pub. L. 90-83, §1(50), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, §§4, 5, Sept. 7, 1974, 88 Stat. 1144, 1145.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 755(a), (b).	Sept. 7, 1916, ch. 458, §5, 39 Stat. 743. Oct. 14, 1949, ch. 691, §104 "Sec. 5(a), (b)", 63 Stat. 855. Sept. 13, 1960, Pub. L. 86-767, §201, 74 Stat. 907.

The words "loss, or" are omitted throughout this section as included in "loss of use of".

In subsection (a)(B), the words "under sections 751-754 of this title" are omitted as surplusage.

In subsection (b)(1), the words "(including paragraphs (16) and (20) thereof)" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8107(a), (b).	5 App.: 755(a), (b).	July 4, 1966, Pub. L. 89-488, §2(a), (b), 80 Stat. 252.

In subsection (a), the words "If there is" are substituted for "In any case of". The words "loss, or" are omitted as included in "loss of use of" and to conform to the remainder of the section. The words "the employee is entitled to basic compensation for the disability" are substituted for "basic compensation for such disability shall be payable to the disabled employee". The words "by the schedule in subsection (c) of this section" are substituted for "in the following schedule" to reflect the codification of the schedule in subsection (c). The words "The schedule referred to in the first sentence is as follows:" are omitted as unnecessary in view of the codification of that schedule in subsection (c).

In subsection (b), the words "an employee is entitled to compensation" are substituted for "compensation shall be paid" for consistency with subsection (a). In subsections (b) (1) and (2), the words "section 8105 of this title" and "section 8106 of this title" are sub-

stituted for “section 3” and “subsection (a) of section 4”, respectively, to reflect the codification of title 5.

Editorial Notes

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-416, § 4, substituted “involving the loss, or loss of use” for “involving the loss of use”.

Subsec. (c)(22). Pub. L. 93-416, § 5, added par. (22).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§ 8108. Reduction of compensation for subsequent injury to same member

The period of compensation payable under the schedule in section 8107(c) of this title is reduced by the period of compensation paid or payable under the schedule for an earlier injury if—

(1) compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

(2) the Secretary of Labor finds that compensation payable for the later disability in whole or in part would duplicate the compensation payable for the preexisting disability.

In such a case, compensation for disability continuing after the scheduled period starts on expiration of that period as reduced under this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 538; Pub. L. 90-83, § 1(51), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES 1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 755(c).	Oct. 14, 1949, ch. 691, § 104 “Sec. 5(c)”, 63 Stat. 857.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
8108	5 App.: 755(c).	July 4, 1966, Pub. L. 89-488, § 2(c), 80 Stat. 252.

Statutory Notes and Related Subsidiaries

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

§ 8109. Beneficiaries of awards unpaid at death; order of precedence

(a) If an individual—

(1) has sustained disability compensable under section 8107(a) of this title;

(2) has filed a valid claim in his lifetime; and

(3) dies from a cause other than the injury before the end of the period specified by the schedule;

the compensation specified by the schedule that is unpaid at his death, whether or not accrued or due at his death, shall be paid—

(A) under an award made before or after the death;

(B) for the period specified by the schedule;

(C) to and for the benefit of the persons then in being within the classes and proportions and on the conditions specified by this section; and

(D) in the following order of precedence:

(i) If there is no child, to the widow or widower.

(ii) If there are both a widow or widower and a child or children, one-half to the widow or widower and one-half to the child or children.

(iii) If there is no widow or widower, to the child or children.

(iv) If there is no survivor in the above classes, to the parent or parents wholly or partly dependent for support on the decedent, or to other wholly dependent relatives listed by section 8133(a)(5) of this title, or to both in proportions provided by regulation.

(v) If there is no survivor in the above classes and no burial allowance is payable under section 8134 of this title, an amount not exceeding that which would be expendable under section 8134 of this title if applicable shall be paid to reimburse a person equitably entitled thereto to the extent and in the proportion that he has paid the burial expenses, but a compensated insurer or other person obligated by law or contract to pay the burial expenses or a State or political subdivision or entity is deemed not equitably entitled.

(b) Payments under subsection (a) of this section, except for an amount payable for a period preceding the death of the individual, are at the basic rate of compensation for permanent disability specified by section 8107(a) of this title even if at the time of death the individual was entitled to the augmented rate specified by section 8110 of this title.

(c) A surviving beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), does not have a vested right to payment and must be alive to receive payment.

(d) A beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), ceases to be entitled to payment on the happening of an event which would terminate his right to compensation for death under section 8133 of this title. When that entitlement ceases, compensation remaining unpaid under subsection (a) of this section is payable to the surviving beneficiary in accordance with subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 538; Pub. L. 90-83, § 1(52), Sept. 11, 1967, 81 Stat. 210.)