

lung cancer may have resulted from exposure to Agent Orange, it would be governed by the provisions of the Stipulation pertaining to claims filed after the district's court's May 3, 1989, order in *Nehmer* invalidating a portion of the referenced regulations. Under paragraph 5 of the Final Stipulation and Order, the effective date of the award in such a claim must be based on the later of the date of filing of the reopened claim or the date of the veteran's death.

b. The portion of the Final Stipulation and Order in the *Nehmer* case pertaining to readjudication of claim denials voided by the district court's May 3, 1989, order in that case applies to claims for burial allowance for service-connected death under 38 U.S.C. § 2307, if such claims were denied under former 38 U.S.C. § 3.311a(d). However, under the circumstances of a particular claim, you may be justified in concluding that a burial allowance claim was not denied under former section 3.311a(d). In that case, the Final Stipulation and Order would not be applicable.

c. If a claim for service-connected burial allowance under what is now 38 U.S.C. § 2307 was denied under former 38 U.S.C. § 3.311a(d) and therefore fell within the group of claim denials voided by the district court's May 3, 1989, order in the *Nehmer* case, or if entitlement to the nonservice-connected burial benefit was previously established, if service connection for the cause of the veteran's death is later established on the basis of regulations issued pursuant to the Agent Orange Act of 1991, the post-burial effective date of those regulations would not be an impediment to payment of a burial allowance under section 2307.

d. The maximum amount of burial allowance payable under section 2307 is determined based on the maximum rate authorized at the time the burial took place. Where nonservice-connected burial benefits have already been paid, and it is later determined that entitlement to service-connected burial allowance exists, only the difference between the amount previously paid and the amount payable under section 2307 may be paid.

Effective Date: June 2, 1995.

VAOPGPCREC 16-95

Question Presented: May the recipient of a VA work-study allowance under 38 U.S.C. § 3485, who is assigned by VA to perform work-study services at a university, be paid by the university the difference between the amount payable by VA and the amount which the university otherwise pays to work-study students performing similar services?

Held: 1. The statutes governing the VA work-study program do not expressly bar the student from receiving work-study payments from both VA and other sources, public or private, for performance of the same work. However, the availability of such other payments has a direct bearing on the individual's need for the additional educational assistance afforded under the VA work-study program. The Department has determined that assistance from another source for performing the same work-study activities vitiates the student's need for the supplemental educational assistance provided by VA's work-study program. Accordingly, VA, in the judicious administration of limited Federal resources, has included terms in its standard student work-study agreement prohibiting receipt or acceptance of such "other source" payments.

2. Nevertheless, that contractual preclusion represents a rebuttable presumption of lack of need for the benefit. Thus, the standard work-study agreement terms restricting "other source" payments may be modified, should VA find it meritorious to do so in the individual case. This may be an option in the case cited if you conclude that receipt of the differential amount does not materially affect the individual's need for a VA work-study allowance.

Effective Date: June 7, 1995.

VAOGCPREC 17-95

Questions Presented: a. What is the scope of any obligation imposed on the Secretary of Veterans Affairs under 38 U.S.C. § 7722, or any other legal authority, to inform individuals concerning benefits to which they may be entitled?¹

b. Does the assumption that the Department of Veterans Affairs (VA) knew or reasonably should have known of an individual's eligibility for VA benefits have any bearing on the Secretary's notification obligation?

c. Are the provisions of any applicable notification law or regulation, including section 7722, applicable from the date of their enactment or retroactively?

¹You have requested our views regarding the scope of VA's notification obligation under section 7722 "or any other legal authority," and we note that a duty to provide notice or information to claimants may sometimes arise under statutory provisions other than section 7722. See, e.g., 38 U.S.C. §§ 3563, 5107(a). However, because we believe that section 7722 provides the sole notification obligation pertinent to the specific facts described in your opinion request, we have limited our analysis to the scope of the duty under that provision. The scope of VA's obligation may differ under other statutory provisions.

d. May a failure to provide required notification to a claimant be the basis of a grant of an earlier effective date of an award of VA benefits and, if so, what is the legal authority to deviate from the criteria pertaining to effective dates of awards?

Held: a. The provisions of 38 U.S.C. § 7722, as interpreted by the Court of Veterans Appeals, require VA to inform individuals of their potential entitlement to Department of Veterans Affairs benefits when (1) such individuals meet the statutory definition of "eligible veteran" or "eligible dependent," and (2) VA is aware or reasonably should be aware that such individuals are potentially entitled to VA benefits. VA's duty to provide information and assistance to such individuals requires only such actions as are reasonable under the circumstances.

b. The notification requirements currently in 38 U.S.C. § 7722 and previously in 38 U.S.C. § 241 have been in effect since March 26, 1970, and do not apply retroactively to any period prior to that date.

c. A failure by VA to provide the notice required by 38 U.S.C. § 7722 may not provide a basis for awarding retroactive benefits in a manner inconsistent with express statutory requirements, except insofar as a court may order such benefits pursuant to its general equitable authority or the Secretary of Veterans Affairs may award such benefits pursuant to his equitable-relief authority under 38 U.S.C. § 503(a).

Effective Date: June 21, 1995.

VAOGCPREC 18-95

Question Presented: Is the Department of Veterans Affairs' (VA) definition of "past-due benefits" in 38 C.F.R. § 20.609(h)(3) inconsistent with the governing statutory provisions in 38 U.S.C. § 5904(d)(3)?

Held: The definition of "past-due benefits" in 38 C.F.R. § 20.609(h)(3) is consistent with the provisions of 38 U.S.C. § 5904(d)(3). Further, because the language of section 5904(d)(3) may reasonably be construed to prohibit counting as past-due benefits any amounts payable after the date of the decision making, or ordering the making of, the award, we believe that the regulatory amendment sought by petitioner would be inconsistent with the statute.

Effective Date: June 22, 1995.

By Direction of the Secretary.

Mary Lou Keener,
General Counsel.

[FR Doc. 95-20490 Filed 8-17-95; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Geriatrics and Gerontology; Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held on September 7 and 8, 1995, by the Department of Veterans Affairs, in Meeting Room 9 of the Ramada Renaissance (Techworld) Hotel located at 999-9th Street, NW, Washington, DC. The purpose of the GGAC is to advise the Secretary of Veterans Affairs and the Under Secretary for Health relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education, and Clinic Centers.

The Committee will convene at 9:00 a.m. (EST) on September 7 to conduct routine business and will adjourn at Noon (EST) on September 8. Tentative topics on the agenda are: VA's Psychogeriatric Programs and Plans, Status of VA Restructuring, Acting ACMD Office of Geriatrics and Extended Care Updates, Status of Extended Care Programs, GRECC Site Visit, Geriatrics and Grants Management Programs, and Ethics and Conflicts of interest. The meeting will be open to the public up to the seating capacity which is about 20 persons. Those wishing to attend should contact Jacqueline Holmes, Program Assistant, Office of the Assistant Chief Medical Director for Geriatrics and Extended Care, at (202) 565-7164, no later than 12 noon (EST) September 4, 1995.

Dated: August 10, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95-20489 Filed 8-17-95; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103-446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held September 18-21, 1995, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of

Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The sessions will convene in room 230, VA Central Office (VACO) Building, 810 Vermont Avenue, NW., Washington, DC on September 18 and 19 from 9:00 a.m. to 5:30 p.m. On September 20, 1995, the meeting will convene in the Omar Bradley Conference Room located in room 1010 between 8:30 a.m. and 5:30 p.m. On September 21, the meeting will be held in room 530 VACO between 8:30 a.m. and 12:00 noon.

Tentative Agenda*Monday, 18 Sept***Call to Order**

8:30 am—Public Forum Speakers
10:30 am—Break
10:40 am—Public Forum Speakers
12:00 pm—Lunch
1:00 pm—Public Forum Speakers
2:30 pm—Break
2:50 pm—Public Forum Speakers
4:30 pm—Committee Session

Review of Data
Discussion of Impacts
Determination of Resolution Plan within Dept of VA within external agencies and Followup Mechanism
6:00 pm—Closure

Tuesday, 19 Sept

8:30 am—Call to order
8:45—Review of Committee's Inaugural Report
Reconfirm mission, goals, objectives
Revalidate Subcommittees and memberships
Determination Specific Support Requirements to include statistical research, data collection, and computer on line services capabilities

9:40 am—African American Veterans
10:40 am—Break
11:00 am—Disabled Minority Veterans
12:00 pm—Lunch
1:00 pm—Subcommittees' Strategic Planning for FY 1996-1997
Development of Plan, to include details, costs, travel, reporting format, protocols,

public affairs, and coordination measures
4:00 pm—Subcommittee Briefings to Committee
5:30 pm—Closure

Wednesday, 20 Sept

8:30 am—Call to Order
8:45 am—Native American Veterans
9:45 am—Break
10:00 am—Guest Speaker, Congressional Black Caucus
11:00 am—African American Working Committee Briefing
12:00 pm—Lunch
1:00 pm—Discussion with Joan Fury, Director of Center for Women Veterans
1:40 pm—Asian American Veterans
2:40 pm—Subcommittee Work
4:30 pm—Review of Unresolved Issues Adjustments to Thursday's Agenda Members Open Discussion
5:30 pm—Closure

Thursday, 21 Sept

8:30 am—Call to Order
8:45 am—Hispanic American Veterans
9:45 am—Break
10:00 am—Native Hawaiian and Pacific Islander Veterans
11:00 am—Committee Discussion

All sessions will be open to the public up to the seating capacity of the rooms. Because the capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Angelia Sare, Department of Veterans Affairs (phone (202) 273-6708) prior to September 15, 1995. Limited time will be allocated for the purpose of receiving oral presentations from the public, however, prior notification of request to speak will be required. The Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: August 9, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95-20546 Filed 8-17-95; 8:45 am]

BILLING CODE 8320-01-M