

(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 5305 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

(c)(1) This section shall not apply to payments made pursuant to section 5310 of this title.

(2) In the case of a temporary increase in compensation for hospitalization or treatment where such hospitalization or treatment commences and terminates within the same calendar month, the period of payment shall commence on the first day of such month.

(d) For the purposes of this section, the term "award or increased award" means—

(1) an original award or award based on a supplemental claim; or

(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.

(Added Pub. L. 97-253, title IV, § 401(a)(1), Sept. 8, 1982, 96 Stat. 801, § 3011; amended Pub. L. 98-223, title I, § 113, Mar. 2, 1984, 98 Stat. 40; renumbered § 5111 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), Aug. 6, 1991, 105 Stat. 403; Pub. L. 111-275, title VI, § 605(a), Oct. 13, 2010, 124 Stat. 2885; Pub. L. 112-154, title V, § 507(b), Aug. 6, 2012, 126 Stat. 1194; Pub. L. 115-55, § 2(m), Aug. 23, 2017, 131 Stat. 1110; Pub. L. 116-283, div. A, title IX, § 926(a)(53), Jan. 1, 2021, 134 Stat. 3830.)

Editorial Notes

AMENDMENTS

2021—Subsec. (a)(2)(A). Pub. L. 116-283 substituted "air, or space service" for "or air service".

2017—Subsec. (d)(1). Pub. L. 115-55 substituted "award or award based on a supplemental claim" for "or reopened award".

2012—Subsec. (c)(1). Pub. L. 112-154 substituted "not apply to payments made pursuant to section 5310 of this title" for "apply to payments made pursuant to section 5310 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred".

2010—Subsec. (a). Pub. L. 111-275 designated existing provisions as par. (1), substituted "in paragraph (2) and subsection (c)" for "in subsection (c) of this section", and added par. (2).

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3011 of this title as this section.

Subsec. (a). Pub. L. 102-40, § 402(d)(1), substituted "5110" for "3010" in two places.

Subsec. (b)(1). Pub. L. 102-83 substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Pub. L. 102-40, § 402(d)(1), substituted "5110" for "3010".

Subsec. (b)(2). Pub. L. 102-40, § 402(d)(1), substituted "5305" for "3105".

Subsec. (c)(1). Pub. L. 102-40, § 402(d)(1), substituted "5310" for "3110".

1984—Subsec. (c). Pub. L. 98-223 designated existing provisions as par. (1) and added par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-55 applicable to all claims for which the Secretary of Veterans Affairs provides notice of a decision under section 5104 of this title on or after the later of 540 days after Aug. 23, 2017, or 30 days after the date on which the Secretary submits to Congress a certification of certain capabilities of the Department of Veterans Affairs to carry out the new appeals system established by Pub. L. 115-55 and to address appeals of decisions on legacy claims, with provision for early applicability of the new appeals system to certain claims, see section 2(x) of Pub. L. 115-55, set out as a note under section 101 of this title, and bracketed note thereunder.

EFFECTIVE DATE OF 2012 AMENDMENT

Pub. L. 112-154, title V, § 507(c), Aug. 6, 2012, 126 Stat. 1194, provided that: "The amendments made by this section [amending this section and section 5310 of this title] shall take effect on the date of the enactment of this Act [Aug. 6, 2012], and shall apply with respect to deaths that occur on or after that date."

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-275, title VI, § 605(b), Oct. 13, 2010, 124 Stat. 2886, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2011, and shall apply with respect to awards of compensation based on original claims that become effective on or after that date."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-223 effective Oct. 1, 1983, see section 114 of Pub. L. 98-223, set out as a note under section 1112 of this title.

EFFECTIVE DATE

Pub. L. 97-253, title IV, § 401(b), Sept. 8, 1982, 96 Stat. 802, provided that: "Section 3011 [now 5111] of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982."

§ 5112. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of—

(A) change in income shall (except as provided in section 5312 of this title) be the last day of the month in which the change occurred; and

(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee of the reduction or discontinuance;

(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

(8) by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, § 3012; Pub. L. 87-825, § 2, Oct. 15, 1962, 76 Stat. 949; Pub. L. 89-730, § 3, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 90-275, § 5, Mar. 28, 1968, 82 Stat. 68; Pub. L. 92-198, § 3, Dec. 15, 1971, 85 Stat. 664; Pub. L. 94-433, title IV, § 402, Sept. 30, 1976, 90 Stat. 1378; Pub. L. 95-588, title III, § 303, Nov. 4, 1978, 92 Stat. 2506; Pub. L. 97-253, title IV, § 402(a), Sept. 8, 1982, 96 Stat. 802; Pub. L. 99-576, title V, § 503, title VII, § 701(64), Oct. 28, 1986, 100 Stat. 3286, 3296; renumbered § 5112 and amended Pub. L. 102-40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 107-103, title II, § 204(b)(2), Dec. 27, 2001, 115 Stat. 990; Pub. L. 117-168, title VIII, § 807(a)(4), Aug. 10, 2022, 136 Stat. 1806.)

Editorial Notes

AMENDMENTS

2022—Subsec. (b)(6). Pub. L. 117-168 struck out “(at the payee’s last address of record)” after “notice to the payee”.

2001—Subsec. (c). Pub. L. 107-103 struck out subsec. (c) which read as follows: “The effective date of a discontinuance under section 5503(b)(1)(A) of this title of pension, compensation, or emergency officers’ retirement pay by reason of hospital treatment or institutional or domiciliary care shall be the last day of the first month of such treatment or care during which the value of the veteran’s estate, as determined under such section, equals or exceeds \$1,500.”

1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3012 of this title as this section.

Subsec. (b)(4)(A). Pub. L. 102-40, § 402(d)(1), substituted “5312” for “3112”.

Subsec. (c). Pub. L. 102-40, § 402(d)(1), substituted “5503(b)(1)(A)” for “3203(b)(1)(A)”.

1986—Subsec. (b)(6). Pub. L. 99-576, § 701(64), substituted “the payee’s” for “his”.

Subsec. (c). Pub. L. 99-576, § 503, added subsec. (c).

1982—Subsec. (b)(2). Pub. L. 97-253 substituted “month” for “calendar year”.

1978—Subsec. (b)(4). Pub. L. 95-588 restructured subsection and, as so restructured, provided that the effective

date of a change in compensation by reason of a change in income would be the last day of the month in which the change occurred rather than the last day in the calendar year in which such change in income occurred.

1976—Subsec. (b)(2). Pub. L. 94-433, § 402(1), inserted “annulment,” before “divorce” in two places.

Subsec. (b)(9). Pub. L. 94-433, § 402(2), substituted “the beneficiary’s” for “his” before “knowledge”.

1971—Subsec. (b)(2). Pub. L. 92-198 substituted “last day of the calendar year” for “last day of the month”.

1968—Subsec. (b)(4). Pub. L. 90-275 struck out exception which provided that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1966—Subsec. (b)(4). Pub. L. 89-730 provided for exception that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1962—Subsecs. (b), (c). Pub. L. 87-825 redesignated subsec. (c) as (b), amended such subsec. generally, and among other changes, inserted provisions relating to the marriage, divorce, or death of a dependent of a payee, the change in income or corpus of an estate, the change in disability or employability of a veteran, the change in law or administrative issue of service-connected or employability status or physical condition, the discontinuance of school attendance, the termination of a temporary increase in compensation for hospitalization or treatment, an erroneous award based on an act or omission of the beneficiary or with his knowledge, and an erroneous award based solely on administrative error or error in judgment, changed the effective date by reason of death, or by reason of marriage or remarriage, from the date of death, or the day before the date of marriage or remarriage, respectively, to the last day of the month before such death, marriage or remarriage occurs, and eliminated provisions relating to attaining age 18 or 21, as applicable, and to fraud on the part of the beneficiary or with his knowledge. Former subsec. (b), which related to the effective date of a reduction or discontinuance in rates, of a compensation, dependency and indemnity compensation, or a pension award, was struck out.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-253, title IV, § 402(b), Sept. 8, 1982, 96 Stat. 802, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.”

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-588 effective Jan. 1, 1979, see section 401 of Pub. L. 95-588, set out as a note under section 101 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 1971 AMENDMENT

Amendment by Pub. L. 92-198 effective Jan. 1, 1972, see section 6 of Pub. L. 92-198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-275 effective first day of first calendar month following month of initial payment of increases in monthly insurance benefits provided by Social Security Amendments of 1967, see sec-

tion 6(b) of Pub. L. 90-275, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89-730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87-825, set out as a note under section 110 of this title.

RULE OF CONSTRUCTION

Amendment by Pub. L. 117-168 not to be construed to apply section 5104(a) of this title to decisions of the Board of Veterans' Appeals under chapter 71 of this title, see section 807(b) of Pub. L. 117-168, set out as a note under section 5100 of this title.

§ 5113. Effective dates of educational benefits

(a) Except as provided in subsections (b) and (c), effective dates relating to awards under chapters 30, 31, 32, 34, and 35 of this title or chapter 106 of title 10 shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

(b)(1) When determining the effective date of an award under chapter 35 of this title for an individual described in paragraph (2) based on an original claim, the Secretary may consider the individual's application as having been filed on the eligibility date of the individual if that eligibility date is more than one year before the date of the initial rating decision.

(2) An individual referred to in paragraph (1) is an eligible person who—

(A) submits to the Secretary an original application for educational assistance under chapter 35 of this title within one year of the date that the Secretary makes the rating decision;

(B) claims such educational assistance for pursuit of an approved program of education during a period preceding the one-year period ending on the date on which the application was received by the Secretary; and

(C) would have been entitled to such educational assistance for such course pursuit if the individual had submitted such an application on the individual's eligibility date.

(3) In this subsection:

(A) The term "eligibility date" means the date on which an individual becomes an eligible person.

(B) The term "eligible person" has the meaning given that term under subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title.

(C) The term "initial rating decision" means with respect to an eligible person a decision made by the Secretary that establishes (i) service connection for the death of the person from whom such eligibility is derived or (ii) the existence of the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, air, or

space service) of the person from whom such eligibility is derived, as the case may be.

(c) The effective date of an adjustment of benefits under any chapter referred to in subsection (a) of this section, if made on the basis of a certification made by the veteran or person and accepted by the Secretary under section 3680(g) of this title, shall be the date of the change.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, §3013; Pub. L. 89-358, §4(p), Mar. 3, 1966, 80 Stat. 25; Pub. L. 99-576, title III, §321(10), Oct. 28, 1986, 100 Stat. 3278; Pub. L. 100-322, title III, §323, May 20, 1988, 102 Stat. 536; Pub. L. 101-237, title IV, §419, Dec. 18, 1989, 103 Stat. 2087; Pub. L. 102-16, §10(a)(9), Mar. 22, 1991, 105 Stat. 56; renumbered §5113, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 106-419, title I, §113(a), Nov. 1, 2000, 114 Stat. 1832; Pub. L. 109-444, §3(c)(2), Dec. 21, 2006, 120 Stat. 3307; Pub. L. 109-461, title III, §301(c)(2), title X, §1006(b), Dec. 22, 2006, 120 Stat. 3427, 3468; Pub. L. 116-283, div. A, title IX, §926(a)(54), Jan. 1, 2021, 134 Stat. 3830.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(3)(C). Pub. L. 116-283 substituted "air, or space service" for "or air service".

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. (b)(3)(B). Pub. L. 109-461, §301(c)(2)(A), substituted "subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title." for "section 3501(a)(1) of this title under subparagraph (A)(i), (A)(ii), (B), or (D) of such section by reason of either (i) the service-connected death or (ii) service-connected total disability permanent in nature of the veteran from whom such eligibility is derived."

Pub. L. 109-444, §3(c)(2)(A), which substituted "subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title." for "section 3501(a)(1) of this title under subparagraph (A)(i), (A)(ii), (B), or (D) of such section by reason of either (i) the service-connected death or (ii) service-connected total disability permanent in nature of the veteran from whom such eligibility is derived.", was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (b)(3)(C). Pub. L. 109-461, §301(c)(2)(B), substituted "the death of the person from whom such eligibility is derived" for "such veteran's death" and "the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service) of the person from whom such eligibility is derived" for "such veteran's service-connected total disability permanent in nature".

Pub. L. 109-444, §3(c)(2)(B), which substituted "the death of the person from whom such eligibility is derived" for "such veteran's death" and "the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service) of the person from whom such eligibility is derived" for "such veteran's service-connected total disability permanent in nature", was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.