

Pub. L. 102-40, §402(d)(1), substituted "5122" for "3022" in introductory provisions.

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

1986—Subsec. (a). Pub. L. 99-576, §701(66)(A), struck out "his" after "entitled at".

Subsec. (a)(2)(A) to (C). Pub. L. 99-576, §701(66)(B), substituted "The veteran's" for "His".

1983—Subsec. (a)(3). Pub. L. 98-160 substituted "surviving spouse" for "widow" in two places.

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

1972—Subsec. (a). Pub. L. 92-328 struck out reference to section 3203(a)(2)(A) of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-183, title I, §104(d), Dec. 16, 2003, 117 Stat. 2656, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Dec. 16, 2003]."

##### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as a note under section 1114 of this title.

#### § 5121A. Substitution in case of death of claimant

(a) **SUBSTITUTION.**—(1) If a claimant dies while a claim for any benefit under a law administered by the Secretary, or an appeal of a decision with respect to such a claim, is pending, a living person who would be eligible to receive accrued benefits due to the claimant under section 5121(a) of this title may, not later than one year after the date of the death of such claimant, file a request to be substituted as the claimant for the purposes of processing the claim to completion.

(2) Any person seeking to be substituted for the claimant shall present evidence of the right to claim such status within such time as prescribed by the Secretary in regulations.

(3) Substitution under this subsection shall be in accordance with such regulations as the Secretary may prescribe.

(b) **LIMITATION.**—Those who are eligible to make a claim under this section shall be determined in accordance with section 5121 of this title.

(Added Pub. L. 110-389, title II, §212(a), Oct. 10, 2008, 122 Stat. 4151.)

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Pub. L. 110-389, title II, §212(c), Oct. 10, 2008, 122 Stat. 4151, provided that: "Section 5121A of title 38, United States Code, as added by subsection (a), shall apply with respect to the claim of any claimant who dies on or after the date of the enactment of this Act [Oct. 10, 2008]."

#### § 5122. Cancellation of checks mailed to deceased payees

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled,

unless negotiated by the payee or the duly appointed representative of the payee's estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 5121 of this title, without regard to section 5121(c) of this title. Any amount not paid in the manner provided in section 5121 of this title shall be paid to the estate of the deceased payee unless the estate will escheat.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1229, §3022; Pub. L. 99-576, title VII, §701(67), Oct. 28, 1986, 100 Stat. 3296; renumbered §5122 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 104-316, title II, §202(t), Oct. 19, 1996, 110 Stat. 3845.)

#### Editorial Notes

##### AMENDMENTS

1996—Pub. L. 104-316 in last sentence struck out "upon settlement by the General Accounting Office" after "shall be paid".

1991—Pub. L. 102-40 renumbered section 3022 of this title as this section and substituted "5121" for "3021" in two places and "5121(c)" for "3021(c)".

1986—Pub. L. 99-576 substituted "the payee's" for "his" in first sentence.

#### § 5123. Rounding down of pension rates

The monthly or other periodic rate of pension payable to an individual under section 1521, 1541, or 1542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of \$1, shall be rounded down to the nearest dollar.

(Added Pub. L. 97-253, title IV, §403(a)(1), Sept. 8, 1982, 96 Stat. 802, §3023; renumbered §5123, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, §5(c)(1), Aug. 6, 1991, 105 Stat. 406.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), referred to in text, is section 306(a) of Pub. L. 95-588, title III, Nov. 4, 1978, 92 Stat. 2508, which is set out as a note under section 1521 of this title.

##### PRIOR PROVISIONS

Prior sections 5201 to 5228 were renumbered sections 8501 to 8528 of this title, respectively.

##### AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3023 of this title as this section.

Pub. L. 102-83 substituted "1521, 1541, or 1542" for "521, 541, or 542".

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section 403(b) of Pub. L. 97-253, as amended by Pub. L. 98-21, title I, §111(e), Apr. 20, 1983, 97 Stat. 73; Pub. L. 98-369, div. B, title VI, §2662(j), July 18, 1984, 98 Stat. 1160, provided that:

"(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) [enacting this section] shall apply with respect to amounts payable for periods beginning after May 31, 1983.