

§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs

(a) REQUIREMENT.—(1) Within the time periods specified in paragraph (3), the Secretary concerned shall (except as provided in paragraph (4)) provide for individual preseparation counseling of each member of the armed forces whose discharge or release from active duty is anticipated as of a specific date. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

(3)(A) In the case of an anticipated retirement, preseparation counseling shall commence as soon as possible during the 24-month period preceding the anticipated retirement date. In the case of a separation other than a retirement, preseparation counseling shall commence as soon as possible during the 12-month period preceding the anticipated date. Except as provided in subparagraph (B), in no event shall preseparation counseling commence later than 90 days before the date of discharge or release.

(B) In the event that a retirement or other separation is unanticipated until there are 90 or fewer days before the anticipated retirement or separation date, or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible, preseparation counseling shall begin as soon as possible within the remaining period of service.

(4)(A) Subject to subparagraph (B), the Secretary concerned shall not provide preseparation counseling to a member who is being discharged or released before the completion of that member's first 180 days of active duty.

(B) Subparagraph (A) shall not apply in the case of a member who is being retired or separated for disability.

(b) MATTERS TO BE COVERED BY COUNSELING.— Counseling under this section shall include the following:

(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

(A) certification and licensure requirements that are applicable to civilian occupations;

(B) civilian occupations that correspond to military occupational specialties; and

(C) Government and private-sector programs for job search and job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement programs established under sections 1152 and 1153 of this title and the Troops-to-Teachers Program under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672).

(5) If the member has a spouse, inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs.

(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

(7) Information concerning the availability of medical and dental coverage following separation from active duty, including the opportunity to elect into the conversion health policy provided under section 1145 of this title.

(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families and the availability to the member and dependents of suicide prevention resources following separation from the armed forces.

(9) Financial planning assistance, including information on budgeting, saving, credit, loans, and taxes.

(10) The creation of a transition plan for the member to attempt to achieve the educational, training,¹ employment, and financial objectives of the member and, if the member has a spouse, the spouse of the member.

(11) Information concerning the availability of mental health services and the treatment of post-traumatic stress disorder, anxiety disorders, depression, suicidal ideations, or other mental health conditions associated with service in the armed forces.

(12) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

(13) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

(14) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

(15) Information concerning veterans preference in Federal employment and Federal procurement opportunities.

¹ So in original.

(16) Information on home loan services and housing assistance benefits available under the laws administered by the Secretary of Veterans Affairs and counseling on responsible borrowing practices.

(17) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs, and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits.

(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.

(Added Pub. L. 101-510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1552; amended Pub. L. 102-190, div. A, title X, §1061(a)(5), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102-484, div. D, title XLIV, §§4401, 4441(b), 4462(b), Oct. 23, 1992, 106 Stat. 2701, 2730, 2740; Pub. L. 103-35, title II, §201(i)(1), May 31, 1993, 107 Stat. 100; Pub. L. 103-160, div. A, title XIII, §1332(c), Nov. 30, 1993, 107 Stat. 1797; Pub. L. 106-398, §1 [div. A], title X, §1087(a)(9), Oct. 30, 2000, 114 Stat. 1654, 1654A-290; Pub. L. 107-103, title III, §302(a), Dec. 27, 2001, 115 Stat. 991; Pub. L. 109-163, div. A, title V, §594, Jan. 6, 2006, 119 Stat. 3281; Pub. L. 111-84, div. A, title X, §1073(a)(13), Oct. 28, 2009, 123 Stat. 2473; Pub. L. 112-56, title II, §221(b), Nov. 21, 2011, 125 Stat. 716; Pub. L. 112-81, div. A, title V, §§513, 529, 533(c), Dec. 31, 2011, 125 Stat. 1393, 1402, 1404.)

AMENDMENT OF SUBSECTION (a)(2)

Pub. L. 112-56, title II, § 221(b), (c), Nov. 21, 2011, 125 Stat. 716, provided that, effective on the date that is 1 year after Nov. 21, 2011, subsection (a)(2) of this section is amended by striking "may" and inserting "shall". See 2011 Amendment note below.

AMENDMENTS

2011—Subsec. (a)(2). Pub. L. 112-56 substituted "shall" for "may".

Subsec. (a)(3)(B). Pub. L. 112-81, §513, inserted "or in the event a member of a reserve component is being demobilized under circumstances in which (as determined by the Secretary concerned) operational requirements make the 90-day requirement under subparagraph (A) unfeasible." after "or separation date."

Subsec. (b)(5). Pub. L. 112-81, §529(1), substituted "inclusion of the spouse, at the discretion of the member and the spouse, when counseling regarding the matters covered by paragraphs (9), (10), and (16) is provided, job placement counseling for the spouse, and the provision of information on survivor benefits available under the laws administered by the Secretary of Defense or the Secretary of Veterans Affairs" for "job placement counseling for the spouse".

Subsec. (b)(8). Pub. L. 112-81, §533(c), inserted before period at end "and the availability to the member and dependents of suicide prevention resources following separation from the armed forces".

Subsec. (b)(9). Pub. L. 112-81, §529(2), inserted before period at end "including information on budgeting, saving, credit, loans, and taxes".

Subsec. (b)(10). Pub. L. 112-81, §529(3), substituted "employment, and financial" for "and employment".

Subsec. (b)(16). Pub. L. 112-81, §529(4), added par. (16) and struck out former par. (16) which read as follows: "Contact information for housing counseling assistance."

Subsec. (b)(17). Pub. L. 112-81, §529(5), inserted before period at end "and information regarding the means by which the member can receive additional counseling regarding the member's actual entitlement to such benefits and apply for such benefits".

2009—Subsec. (b)(4)(C). Pub. L. 111-84, §1073(a)(13)(A), substituted "the Troops-to-Teachers Program under section 2302 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6672)" for "the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.)".

Subsec. (b)(15). Pub. L. 111-84, §1073(a)(13)(B), substituted "Federal" for "federal" in two places.

2006—Subsec. (b)(4). Pub. L. 109-163, §594(1), substituted "Provision of information on civilian occupations and related assistance programs, including information concerning—

"(A) certification and licensure requirements that are applicable to civilian occupations;

"(B) civilian occupations that correspond to military occupational specialties; and

"(C)"

for "Information concerning".

Subsec. (b)(11) to (17). Pub. L. 109-163, §594(2), added pars. (11) to (17).

2001—Subsec. (a)(1). Pub. L. 107-103, §302(a)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "As soon as possible before, but in no event later than 90 days before, the date of the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual pre-separation counseling of the member."

Subsec. (a)(3), (4). Pub. L. 107-103, §302(a)(2), added pars. (3) and (4).

2000—Subsec. (b)(4). Pub. L. 106-398 substituted "sections 1152 and 1153 of this title and the Troops-to-Teachers Program Act of 1999 (20 U.S.C. 9301 et seq.)" for "sections 1151, 1152, and 1153 of this title".

1993—Subsec. (b)(4). Pub. L. 103-160 substituted "programs established under sections 1151, 1152, and 1153 of this title" for "program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aides".

Pub. L. 103-35 substituted "job placement assistance, including the public and community service jobs program carried out under section 1143a of this title, and information regarding the placement program established under section 1151 of this title to assist members to obtain employment as elementary or secondary school teachers or teachers' aides" for "job placement assistance and information regarding the placement program established under section 1151 of this title to assist members obtain employment as elementary or secondary school teachers or teachers' aides, including the public and community service jobs program carried out under section 1143a of this title".

1992—Subsec. (a)(1). Pub. L. 102-484, §4401(a), substituted "As soon as possible before, but in no event later than 90 days before, the date of the discharge" for "Upon the discharge".

Subsec. (b)(4). Pub. L. 102-484, §4462(b), inserted before period at end "including the public and community service jobs program carried out under section 1143a of this title".

Pub. L. 102-484, §4441(b), inserted before period at end "and information regarding the placement program established under section 1151 of this title to assist members obtain employment as elementary or secondary school teachers or teachers' aides."

Subsec. (b)(10). Pub. L. 102-484, §4401(b), added par. (10).

1991—Subsec. (b)(5). Pub. L. 102-190 substituted period for semicolon at end.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-56, title II, §221(c), Nov. 21, 2011, 125 Stat. 716, provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1144 of this title] shall take effect on the date that is 1 year after the date of the enactment of this Act [Nov. 21, 2011].”

APPLICATION OF PRESEPARATION COUNSELING REQUIREMENTS TO COAST GUARD

Pub. L. 103-337, div. A, title V, §543(a), Oct. 5, 1994, 108 Stat. 2769, provided that: “As soon as possible after the date of the enactment of this Act [Oct. 5, 1994], the Secretary of Transportation shall implement the requirements of section 1142 of title 10, United States Code, for the Coast Guard.”

LIMITATION ON FUNDING TO CARRY OUT SECTION 543 OF PUB. L. 103-337

Pub. L. 103-337, div. A, title V, §543(h), Oct. 5, 1994, 108 Stat. 2772, provided that: “Funds appropriated or otherwise made available to the Department of Defense, the Department of Education, the Department of Labor, or the Department of Veterans Affairs may not be used to carry out subsection (a) [set out above] or the amendments made by this section [amending sections 1144 and 1151 to 1153 of this title and provisions set out as notes under section 1143 of this title].”

§ 1143. Employment assistance

(a) EMPLOYMENT SKILLS VERIFICATION.—The Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard shall provide to members of the armed forces who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

(b) EMPLOYMENT ASSISTANCE CENTERS.—The Secretary of Defense shall establish permanent employment assistance centers at appropriate military installations. The Secretary of Homeland Security shall establish permanent employment assistance centers at appropriate Coast Guard installations.

(c) INFORMATION TO CIVILIAN ENTITIES.—For the purpose of assisting members covered by subsection (a) and their spouses in locating civilian employment and training opportunities, the Secretary of Defense and the Secretary of Homeland Security shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

(d) EMPLOYMENT PREFERENCE BY NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, or Marine Corps who are involuntarily separated, and the dependents of such members, shall be provided a preference in hiring by non-appropriated fund instrumentalities of the Department. Such preference shall be administered

in the same manner as the preference for military spouses provided under section 1784(a)(2) of this title, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once. The Secretary of Homeland Security shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.

(e) EMPLOYMENT SKILLS TRAINING.—(1) The Secretary of a military department may carry out one or more programs to provide eligible members of the armed forces under the jurisdiction of the Secretary with job training and employment skills training, including apprenticeship programs, to help prepare such members for employment in the civilian sector.

(2) A member of the armed forces is an eligible member for purposes of a program under this subsection if the member—

(A) has completed at least 180 days on active duty in the armed forces; and

(B) is expected to be discharged or released from active duty in the armed forces within 180 days of the date of commencement of participation in such a program.

(3) Any program under this subsection shall be carried out in accordance with regulations prescribed by the Secretary of Defense.

(Added Pub. L. 101-510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1553; amended Pub. L. 103-337, div. A, title V, §542(a)(2), Oct. 5, 1994, 108 Stat. 2767; Pub. L. 105-85, div. A, title X, §1073(a)(21), Nov. 18, 1997, 111 Stat. 1901; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 112-81, div. A, title V, §551, Dec. 31, 2011, 125 Stat. 1412.)

AMENDMENTS

2011—Subsec. (e). Pub. L. 112-81 added subsec. (e).

2002—Subsecs. (a) to (d). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1997—Subsec. (d). Pub. L. 105-85 substituted “section 1784(a)(2) of this title” for “section 806(a)(2) of the Military Family Act of 1985”.

1994—Pub. L. 103-337, §542(a)(2)(A), struck out “; Department of Defense” after “assistance” in section catchline.

Subsec. (a). Pub. L. 103-337, §542(a)(2)(B), inserted “and the Secretary of Transportation with respect to the Coast Guard” after “Secretary of Defense” and struck out “under the jurisdiction of the Secretary” after “armed forces”.

Subsec. (b). Pub. L. 103-337, §542(a)(2)(C), inserted at end “The Secretary of Transportation shall establish permanent employment assistance centers at appropriate Coast Guard installations.”

Subsec. (c). Pub. L. 103-337, §542(a)(2)(D), inserted “and the Secretary of Transportation” after “Secretary of Defense”.

Subsec. (d). Pub. L. 103-337, §542(a)(2)(E), inserted at end “The Secretary of Transportation shall provide the same preference in hiring to involuntarily separated members of the Coast Guard, and the dependents of such members, in Coast Guard nonappropriated fund instrumentalities.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.