

former section 1507 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980, see section 802(a)(4) of Pub. L. 96-466, set out as an Effective Date note under section 3100 of this title.

§ 3108. Allowances

(a)(1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Secretary to be a period of such veteran's participation under this chapter in a rehabilitation program.

(2) In any case in which the Secretary determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title.

(3) A subsistence allowance may not be paid under this chapter to a veteran for any period during which such veteran is being provided with an initial evaluation under section 3106(a) of this title or during which such veteran is being provided only with counseling or with placement or postplacement services under section 3105(b) of this title.

(b)(1) Except as otherwise provided in this section, the Secretary shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

Column I	Column II	Column III	Column IV	Column V	
Type of program	No dependents	One dependent	Two dependents	More than two dependents	
Institutional training:				The amount in column IV, plus the following for each dependent in excess of two:	
Full-time ..	\$366	\$454	\$535		\$39
Three-quarter time.	275	341	400		30
Half-time ..	184	228	268		20
Farm cooperative, apprentice, or other on-job training:					
Full-time ..	320	387	446		29
Extended evaluation:					
Full-time ..	366	454	535		39
Independent living training:					
Full-time ..	366	454	535		39
Three-quarter time.	275	341	400		30
Half-time ..	184	228	268		20

(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a

percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).

(4) A veteran entitled to a subsistence allowance under this chapter and educational assistance under chapter 33 of this title may elect to receive payment from the Secretary in lieu of an amount otherwise determined by the Secretary under this subsection in an amount equal to the applicable monthly amount of basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution providing¹ rehabilitation program concerned.

(c)(1) In any case in which the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Secretary a statement in writing showing any wage, compensation, or other income paid (directly or indirectly) by the employer to such veteran for such month. Based upon such written statement, the Secretary is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Secretary shall establish in regulations which the Secretary shall prescribe.

(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal, State, or local government agency or federally recognized Indian tribe under the provisions of section 3115(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

(d)(1) The Secretary shall, in accordance with regulations which the Secretary shall prescribe, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accord-

¹ So in original. Probably should be followed by "the".

ance with regulations which the Secretary shall prescribe.

(e) In any case in which a veteran is pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Secretary may (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

(f)(1)(A) In any case in which the Secretary determines that a veteran is eligible for and entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter 30 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under chapter 30 of this title, if the Secretary approves the educational, professional, or vocational objective chosen by such veteran for such program.

(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter 30 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

(2) A veteran who is receiving an allowance pursuant to paragraph (1) of this subsection may not receive any of the services or assistance described in section 3104(a)(3), (7), and (8) of this title (other than an allowance and other assistance under this subsection).

(g)(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, local, or other penal institution or correctional facility for conviction of a felony.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(h) Notwithstanding any other provision of this title, the amount of subsistence allowance, or other allowance under subsection (f) of this section, that may be paid to a veteran pursuing a rehabilitation program for any month for which such veteran receives compensation at the rate prescribed in section 1114(j) of this title as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the Department of Veterans Affairs may not exceed, when added to any compensation to which such veteran is entitled for such month, an amount equal to the greater of—

(1) the sum of—

(A) the amount of monthly subsistence or other allowance that would otherwise be paid to such veteran under this section, and

(B) the amount of monthly compensation that would be paid to such veteran if such veteran were not receiving compensation at such rate as the result of such hospital treatment or observation; or

(2) the amount of monthly compensation payable under section 1114(j) of this title.

(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 3680(d) of this title.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2178, §1508; amended Pub. L. 97-306, title II, §205(a), Oct. 14, 1982, 96 Stat. 1434; Pub. L. 98-525, title VII, §703(a), Oct. 19, 1984, 98 Stat. 2564; Pub. L. 98-543, title II, §201, Oct. 24, 1984, 98 Stat. 2740; Pub. L. 101-237, title IV, §§402(a), 423(b)(1), Dec. 18, 1989, 103 Stat. 2078, 2092; Pub. L. 102-16, §3(c), Mar. 22, 1991, 105 Stat. 49; renumbered §3108 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title IV, §405(a), (b), Oct. 29, 1992, 106 Stat. 4338, 4339; Pub. L. 103-446, title VI, §602(b), Nov. 2, 1994, 108 Stat. 4671; Pub. L. 104-275, title I, §101(g), Oct. 9, 1996, 110 Stat. 3325; Pub. L. 109-461, title X, §1002(b), Dec. 22, 2006, 120 Stat. 3465; Pub. L. 111-377, title II, §205(a), Jan. 4, 2011, 124 Stat. 4126.)

PRIOR PROVISIONS

Prior section 3108 was renumbered section 5308 of this title.

Provisions similar to those comprising this section were contained in former section 1504 of this title prior to the general revision of this chapter by Pub. L. 96-466.

AMENDMENTS

2011—Subsec. (b)(4). Pub. L. 111-377 added par. (4).

2006—Subsec. (g)(1). Pub. L. 109-461 substituted "local, or other penal institution or correctional facility" for "or local penal institution".

1996—Subsec. (a)(2). Pub. L. 104-275, §101(g)(1), substituted "while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title" for "following the conclusion of such pursuit".

Subsec. (f)(1)(A). Pub. L. 104-275, §101(g)(2)(A), inserted "eligible for and" after "veteran is" and substituted "chapter 30" for "chapter 30 or 34" and "enrolled under chapter 30" for "enrolled under either chapter 30 or chapter 34".

Subsec. (f)(1)(B). Pub. L. 104-275, §101(g)(2)(B), substituted "chapter 30" for "chapter 30 or 34".

1994—Subsec. (c)(2). Pub. L. 103-446 inserted "or federally recognized Indian tribe" after "local government agency".

1992—Subsec. (b). Pub. L. 102-568, §405(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 102-568, §405(a), increased the monthly rehabilitation subsistence allowance for eligible veterans in column II from \$333, \$250, \$167, \$291, \$333, \$333, \$250, and \$167 to \$366, \$275, \$184, \$320, \$366, \$366, \$275, and \$184; in column III from \$413, \$310, \$207, \$352, \$413, \$413, \$310, and \$207 to \$454, \$341, \$228, \$387, \$454, \$454, \$341, and \$228; in column IV from \$486, \$364, \$244, \$405, \$486, \$486, \$364, and \$244 to \$535, \$400, \$268, \$446, \$535, \$535, \$3400, and \$268; and in column V from \$35, \$27, \$18, \$26, \$35, \$35, \$27, and \$18 to \$39, \$30, \$20, \$29, \$39, \$39, \$30, and \$20, respectively.

1991—Pub. L. 102-83, §5(a), renumbered section 1508 of this title as this section.

Subsec. (a)(3). Pub. L. 102-83, §5(c)(1), substituted "3106(a)" for "1506(a)" and "3105(b)" for "1505(b)".

Subsec. (c)(2). Pub. L. 102-83, §5(c)(1), substituted "3115(a)(1)" for "1515(a)(1)".

Pub. L. 102-16 inserted ", State, or local government" after "Federal".

Subsec. (f)(2). Pub. L. 102-83, §5(c)(1), substituted "3104(a)(3)" for "1504(a)(3)".

Subsec. (h). Pub. L. 102-83, §5(c)(1), substituted "1114(j)" for "314(j)" in two places.

Subsec. (i). Pub. L. 102-83, §5(c)(1), substituted "3680(d)" for "1780(d)".

1989—Subsec. (a)(1), (2). Pub. L. 101-237, §423(b)(1)(A), substituted "Secretary" for "Administrator".

Subsec. (b). Pub. L. 101-237, §423(b)(1)(A), substituted "Secretary" for "Administrator".

Pub. L. 101-237, §402(a), increased the monthly rehabilitation subsistence allowance for eligible veterans in column II from \$310, \$233, \$155, \$271, \$310, \$310, \$233, and \$155 to \$333, \$250, \$167, \$291, \$333, \$333, \$250, and \$167; in column III from \$384, \$288, \$193, \$327, \$384, \$384, \$288, and \$193 to \$413, \$310, \$207, \$352, \$413, \$413, \$310, and \$207; in column IV from \$452, \$339, \$227, \$377, \$452, \$452, \$339, and \$227 to \$486, \$364, \$244, \$405, \$486, \$486, \$364, and \$244; in column V from \$33, \$25, \$17, \$24, \$33, \$33, \$25, and \$17 to \$35, \$27, \$18, \$26, \$35, \$35, \$27, and \$18, respectively.

Subsecs. (c)(1) to (f)(1)(A). Pub. L. 101-237, §423(b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (h). Pub. L. 101-237, §423(b)(1)(B), substituted "Department of Veterans Affairs" for "Veterans' Administration".

1984—Subsec. (b). Pub. L. 98-543 increased the monthly rehabilitation subsistence allowance for eligible veterans in column II from \$282, \$212, \$141, \$246, \$282, \$282, \$212, and \$141 to \$310, \$233, \$155, \$271, \$310, \$310, \$233, and \$155; in column III from \$349, \$262, \$175, \$297, \$349, \$349, \$262, and \$175 to \$384, \$288, \$193, \$323, \$384, \$384, \$288, and \$193; in column IV from \$411, \$308, \$206, \$343, \$411, \$411, \$308, and \$206 to \$452, \$339, \$227, \$377, \$452, \$452, \$339, and \$227; in column V from \$30, \$23, \$15, \$22, \$30, \$30, \$23, and \$15 to \$33, \$25, \$17, \$24, \$33, \$33, \$25, and \$17, respectively.

Subsec. (f)(1)(A), (B). Pub. L. 98-525 inserted references to chapter 30 of this title.

1982—Subsec. (g)(2). Pub. L. 97-306 inserted "not" after "shall" and struck out "if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government" at end.

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title II, §205(b), Jan. 4, 2011, 124 Stat. 4126, provided that: "The amendment made by this section [amending this section] shall take effect on August 1, 2011."

EFFECTIVE DATE OF 1992 AMENDMENT

Section 405(c) of Pub. L. 102-568 provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1993."

EFFECTIVE DATE OF 1989 AMENDMENT

Section 402(b) of Pub. L. 101-237 provided that: "The amendment made by this section [amending this section] shall take effect on January 1, 1990."

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98-543 provided that: "The amendments made by this part [part A (§§201-205) of title II of Pub. L. 98-543, see Tables for classification] shall take effect as of October 1, 1984."

EFFECTIVE DATE; VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER THIS CHAPTER

Section effective Oct. 1, 1980, and during period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of this section, as added by Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2178, shall apply to veterans pursuing a program of vocational rehabilitation

training under this chapter in the same manner as former section 1504 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980, see section 802(a)(2), (4) of Pub. L. 96-466, set out as an Effective Date note under section 3100 of this title.

APPLICABILITY OF SUBSECTION (g)(1) TO APPOINTMENTS MADE BEFORE OCTOBER 17, 1980

Section 101(c) of Pub. L. 96-466 provided that: "The provisions of section 1508(g)(1) [now 3108(g)(1)] of title 38, United States Code, as added by subsection (a) shall not apply to an apportionment made under section 3107(c) [now 5307(c)] of such title before the date of the enactment of this Act [Oct. 17, 1980]."

§3109. Entitlement to independent living services and assistance

In any case in which the Secretary has determined under section 3106(e) of this title that the achievement of a vocational goal by a veteran currently is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 3120 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2181, §1509; amended Pub. L. 99-576, title III, §333(b)(5), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3109 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-275, title I, §101(f)(2)(B), Oct. 9, 1996, 110 Stat. 3325.)

PRIOR PROVISIONS

Prior section 3109 was renumbered section 5309 of this title.

AMENDMENTS

1996—Pub. L. 104-275 substituted "3106(e)" for "3106(d)".

1991—Pub. L. 102-83 renumbered section 1509 of this title as this section and substituted "3106(d)" for "1506(d)" and "3120" for "1520".

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator".

1986—Pub. L. 99-576 inserted "currently" after first reference to "veteran".

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

§3110. Leaves of absence

The Secretary shall prescribe such regulations as the Secretary determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2181, §1510; amended Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3110, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3110 was renumbered section 5310 of this title.

Provisions similar to those comprising this section were contained in former section 1505 of this title prior to the general revision of this chapter by Pub. L. 96-466.