

[§ 5505. Repealed. Pub. L. 103-446, title XII, § 1201(g)(4)(A), Nov. 2, 1994, 108 Stat. 4687]

Section, added Pub. L. 101-508, title VIII, § 8001(a)(1), Nov. 5, 1990, 104 Stat. 1388-341, § 3205; renumbered § 5505, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238, related to limitation on compensation payments for certain incompetent veterans.

§ 5506. Definition of “fiduciary”

For purposes of this chapter and chapter 61 of this title, the term “fiduciary” means—

(1) a person who is a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant's estate) or of a beneficiary (or a beneficiary's estate); or

(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.

(Added Pub. L. 108-454, title V, § 501(a)(1), Dec. 10, 2004, 118 Stat. 3617.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5507. Inquiry, investigations, and qualification of fiduciaries

(a) Any certification of a person for payment of benefits of a beneficiary to that person as such beneficiary's fiduciary under section 5502 of this title shall be made on the basis of—

(1) an inquiry or investigation by the Secretary of the fitness of that person to serve as fiduciary for that beneficiary, such inquiry or investigation—

(A) to be conducted in advance of such certification;

(B) to the extent practicable, to include a face-to-face interview with such person; and

(C) to the extent practicable, to include a copy of a credit report for such person issued within one year of the date of the proposed appointment;

(2) adequate evidence that certification of that person as fiduciary for that beneficiary is in the interest of such beneficiary (as determined by the Secretary under regulations); and

(3) the furnishing of any bond that may be required by the Secretary.

(b) As part of any inquiry or investigation of any person under subsection (a), the Secretary shall request information concerning whether that person has been convicted of any offense under Federal or State law which resulted in imprisonment for more than one year. If that person has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary finds that the person is an appropriate person to act as fiduciary for the beneficiary concerned under the circumstances.

(c)(1) In the case of a proposed fiduciary described in paragraph (2), the Secretary, in conducting an inquiry or investigation under sub-

section (a)(1), may carry out such inquiry or investigation on an expedited basis that may include waiver of any specific requirement relating to such inquiry or investigation, including the otherwise applicable provisions of subparagraphs (A), (B), and (C) of such subsection. Any such inquiry or investigation carried out on such an expedited basis shall be carried out under regulations prescribed for purposes of this section.

(2) Paragraph (1) applies with respect to a proposed fiduciary who is—

(A) the parent (natural, adopted, or step-parent) of a beneficiary who is a minor;

(B) the spouse or parent of an incompetent beneficiary;

(C) a person who has been appointed a fiduciary of the beneficiary by a court of competent jurisdiction; or

(D) being appointed to manage an estate where the annual amount of veterans benefits to be managed by the proposed fiduciary does not exceed \$3,600, as adjusted pursuant to section 5312 of this title.

(d) **TEMPORARY FIDUCIARIES.**—When in the opinion of the Secretary, a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed or a fiduciary is appealing a determination of misuse, the Secretary may appoint one or more temporary fiduciaries for a period not to exceed 120 days. If a final decision has not been made within 120 days, the Secretary may not continue the appointment of the fiduciary without obtaining a court order for appointment of a guardian, conservator, or other fiduciary under the authority provided in section 5502(b) of this title.

(Added Pub. L. 108-454, title V, § 502(a), Dec. 10, 2004, 118 Stat. 3618.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5508. Periodic onsite reviews of institutional fiduciaries

In addition to such other reviews of fiduciaries as the Secretary may otherwise conduct, the Secretary shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under laws administered by the Secretary to another individual pursuant to the appointment of such person or agency as a fiduciary under section 5502(a)(1) of this title in any case in which the fiduciary is serving in that capacity with respect to more than 20 beneficiaries and the total annual amount of such benefits exceeds \$50,000, as adjusted pursuant to section 5312 of this title.

(Added Pub. L. 108-454, title V, § 504(a)(1), Dec. 10, 2004, 118 Stat. 3620.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting

(a) **REQUIRED REPORTS AND ACCOUNTINGS.**—The Secretary may require a fiduciary to file a report or accounting pursuant to regulations prescribed by the Secretary.

(b) **ACTIONS UPON FAILURE TO FILE.**—In any case in which a fiduciary fails to submit a report or accounting required by the Secretary under subsection (a), the Secretary may, after furnishing notice to such fiduciary and the beneficiary entitled to such payment of benefits, require that such fiduciary appear in person at a regional office of the Department serving the area in which the beneficiary resides in order to receive such payments.

(Added Pub. L. 108-454, title V, §504(a)(1), Dec. 10, 2004, 118 Stat. 3621.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5510. Annual report

The Secretary shall include in the Annual Benefits Report of the Veterans Benefits Administration or the Secretary's Annual Performance and Accountability Report information concerning fiduciaries who have been appointed to receive payments for beneficiaries of the Department. As part of such information, the Secretary shall separately set forth the following:

- (1) The number of beneficiaries in each category (veteran, surviving spouse, child, adult disabled child, or parent).
- (2) The types of benefit being paid (compensation, pension, dependency and indemnity compensation, death pension or benefits payable to a disabled child under chapter 18 of this title).
- (3) The total annual amounts and average annual amounts of benefits paid to fiduciaries for each category and type of benefit.
- (4) The number of fiduciaries who are the spouse, parent, legal custodian, court-appointed fiduciary, institutional fiduciary, custodian in fact, and supervised direct payees.
- (5) The number of cases in which the fiduciary was changed by the Secretary because of a finding that benefits had been misused.
- (6) How such cases of misuse of benefits were addressed by the Secretary.
- (7) The final disposition of such cases of misuse of benefits, including the number and dollar amount of any benefits reissued to beneficiaries.
- (8) The number of fiduciary cases referred to the Office of the Inspector General and the nature of the actions taken by the Inspector General.
- (9) The total amount of money recovered by the Government in cases arising from the misuse of benefits by a fiduciary.
- (10) Such other information as the Secretary considers appropriate.

(Added Pub. L. 108-454, title V, §505(a), Dec. 10, 2004, 118 Stat. 3621; amended Pub. L. 111-275, title X, §1001(l), Oct. 13, 2010, 124 Stat. 2897.)

AMENDMENTS

2010—Pub. L. 111-275, §1001(l)(1), substituted “following:” for “following: —” in introductory provisions.

Par. (9), Pub. L. 111-275, §1001(l)(2), substituted “Government” for “government”.

EFFECTIVE DATE

Section effective Dec. 10, 2004, see section 507(b)(1) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

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AMENDMENTS

2006—Pub. L. 109-461, title IX, §902(b), Dec. 22, 2006, 120 Stat. 3460, added item for subchapter III and items 5721 to 5728.

1991—Pub. L. 102-54, §14(d)(5)(B), (6)(C), June 13, 1991, 105 Stat. 286, amended table of sections at beginning of chapter as in effect immediately before the enactment of Pub. L. 102-40 by substituting “subpoenas” for “subpenas” in item 3311 and “subpoena” for “subpena” in item 3313.

Pub. L. 102-40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3301 to 3313 as 5701 to 5713, respectively.

1980—Pub. L. 96-385, title V, §505(b), Oct. 7, 1980, 94 Stat. 1537, added item 3305.

SUBCHAPTER I—RECORDS

§ 5701. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Secretary and the names and addresses of present or former members of the Armed Forces, and their dependents, in the possession of the Department shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

(b) The Secretary shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:

- (1) To a claimant or duly authorized agent or representative of a claimant as to matters