

(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Secretary shall, to the maximum extent practicable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.

(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Secretary shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

(2) The Secretary shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Secretary in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, §3020; Pub. L. 95-117, title IV, §402(a), (b)(1), Oct. 3, 1977, 91 Stat. 1065, 1066; Pub. L. 97-295, §4(73), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 99-570, title XI, §11007(a)(2), Oct. 27, 1986, 100 Stat. 3207-170; Pub. L. 99-576, title VII, §701(65), Oct. 28, 1986, 100 Stat. 3296; renumbered §5120, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3020 of this title as this section.

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

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

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

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

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" before period at end.

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

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

Subsec. (f)(1). Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

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

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Subsec. (a). Pub. L. 99-576, §701(65)(A), substituted "the payee's" for "his", and "the payee" for "he" and "him" in third sentence.

Subsec. (b). Pub. L. 99-576, §701(65)(B), substituted "such person" for "he", "surviving spouse" for "widow", "the surviving spouse" for "she" in two

places, "to the surviving spouse" for "to her", and "by the" for "by her" in first sentence.

Subsec. (f). Pub. L. 99-570 added subsec. (f).

1982—Subsec. (a). Pub. L. 97-295 substituted "United States Postal Service" for "Post Office Department".

1977—Pub. L. 95-117, §402(b)(1), struck out "by check" after "benefits" in section catchline.

Subsecs. (d), (e). Pub. L. 95-117, §402(a), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-570, title XI, §11007(b)(2), Oct. 27, 1986, 100 Stat. 3207-170, provided that: "The amendment made by subsection (a)(2) [amending this section] shall take effect with respect to payments made on or after October 1, 1986."

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-117, title IV, §402(c), Oct. 3, 1977, 91 Stat. 1066, provided that: "The amendments made by this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]."

§ 5121. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Secretary to which an individual was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death (hereinafter in this section and section 5122 of this title referred to as "accrued benefits") and due and unpaid, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Secretary.

(2) Upon the death of a veteran, to the living person first listed below:

(A) The veteran's spouse.

(B) The veteran's children (in equal shares).

(C) The veteran's dependent parents (in equal shares).

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran.

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension.

(5) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents.

(6) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the claimant of the evidence nec-

essary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1228, §3021; Pub. L. 92–328, title I, §105(b), June 30, 1972, 86 Stat. 395; Pub. L. 97–258, §3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 98–160, title VII, §703(1), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99–576, title VII, §701(66), Oct. 28, 1986, 100 Stat. 3296; renumbered §5121 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), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 104–275, title V, §507, Oct. 9, 1996, 110 Stat. 3343; Pub. L. 107–14, §8(a)(16), June 5, 2001, 115 Stat. 35; Pub. L. 108–183, title I, §104(a)–(c), Dec. 16, 2003, 117 Stat. 2656.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, §104(c)(1), struck out comma after “or decisions” in introductory provisions.

Pub. L. 108–183, §104(a), struck out “for a period not to exceed two years” after “unpaid” in introductory provisions.

Subsec. (a)(1) to (4). Pub. L. 108–183, §104(c)(2), substituted period for semicolon at end of pars. (1) to (4) and subpars. (A) and (B) of par. (2).

Subsec. (a)(5), (6). Pub. L. 108–183, §104(b), added par. (5) and redesignated former par. (5) as (6).

2001—Subsec. (a). Pub. L. 107–14 substituted “hereinafter” for “hereafter” in introductory provisions.

1996—Subsec. (a). Pub. L. 104–275 substituted “two years” for “one year” in introductory provisions.

1991—Pub. L. 102–40, §402(b)(1), renumbered section 3021 of this title as this section.

Subsec. (a). Pub. L. 102–83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” in par. (1).

Pub. L. 102–83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in introductory provisions.

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.

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.)

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.)

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.