

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.