

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.

(Added Pub. L. 97-253, title IV, § 403(a)(1), Sept. 8, 1982, 96 Stat. 802, § 3023; renumbered § 5123, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406.)

## REFERENCES IN TEXT

Section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), referred to in text, is section 306(a) of Pub. L. 95-588, title III, Nov. 4, 1978, 92 Stat. 2508, which is set out as a note under section 1521 of this title.

## PRIOR PROVISIONS

Prior sections 5201 to 5228 were renumbered sections 8501 to 8528 of this title, respectively.

## AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3023 of this title as this section.

Pub. L. 102-83 substituted “1521, 1541, or 1542” for “521, 541, or 542”.

## EFFECTIVE DATE

Section 403(b) of Pub. L. 97-253, as amended by Pub. L. 98-21, title I, § 111(e), Apr. 20, 1983, 97 Stat. 73; Pub. L. 98-369, div. B, title VI, § 2662(j), July 18, 1984, 98 Stat. 1160, provided that:

“(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) [enacting this section] shall apply with respect to amounts payable for periods beginning after May 31, 1983.

“(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 [now 1521, 1541, and 1542] of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 [now 5312] of title 38, United States Code.”

#### § 5124. Acceptance of claimant's statement as proof of relationship

(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

- (1) Marriage.
- (2) Dissolution of a marriage.
- (3) Birth of a child.
- (4) Death of any family member.

(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

- (1) the claimant does not reside within a State;
- (2) the statement on its face raises a question as to its validity;
- (3) there is conflicting information of record; or
- (4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.

(Added Pub. L. 103-446, title III, § 301(a), Nov. 2, 1994, 108 Stat. 4657.)

#### § 5125. Acceptance of reports of private physician examinations

For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a re-

port of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.

(Added Pub. L. 103-446, title III, § 301(b), Nov. 2, 1994, 108 Stat. 4658.)

#### § 5126. Benefits not to be denied based on lack of mailing address

Benefits under laws administered by the Secretary may not be denied a claimant on the basis that the claimant does not have a mailing address.

(Added Pub. L. 106-475, § 3(b), Nov. 9, 2000, 114 Stat. 2098.)

### CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.	
5301.	Nonassignability and exempt status of benefits.
5302.	Waiver of recovery of claims by the United States.
5302A.	Collection of indebtedness: certain debts of members of the Armed Forces and veterans who die of injury incurred or aggravated in the line of duty in a combat zone.
5303.	Certain bars to benefits.
5303A.	Minimum active-duty service requirement.
5304.	Prohibition against duplication of benefits.
5305.	Waiver of retired pay.
5306.	Renouncement of right to benefits.
5307.	Apportionment of benefits.
5308.	Withholding benefits of persons in territory of the enemy.
5309.	Payment of certain withheld benefits.
5310.	Payment of benefits for month of death.
5311.	Prohibition of certain benefit payments.
5312.	Annual adjustment of certain benefit rates.
5313.	Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony.
5313A.	Limitation on payment of clothing allowance to incarcerated veterans.
5313B.	Prohibition on providing certain benefits with respect to persons who are fugitive felons.
5314.	Indebtedness offsets.
5315.	Interest and administrative cost charges on delinquent payments of certain amounts due the United States.
5316.	Authority to sue to collect certain debts.
5317.	Use of income information from other agencies: notice and verification.
5317A.	Use of income information from other agencies: independent verification required before termination or reduction of certain benefits and services.
5318.	Review of Social Security Administration death information.
5319.	Limitations on access to financial records.

## AMENDMENTS

2008—Pub. L. 110-252, title I, § 1303(a)(2), June 30, 2008, 122 Stat. 2327, added item 5302A.

2007—Pub. L. 110-157, title III, § 301(b)(2), Dec. 26, 2007, 121 Stat. 1836, added item 5317A.

2003—Pub. L. 108-183, title VII, § 708(c)(4)(B)(ii), Dec. 16, 2003, 117 Stat. 2675, substituted “Social Security Ad-