

§ 439. Special compensation: members of the uniformed services with catastrophic injuries or illnesses requiring assistance in everyday living

(a) MONTHLY COMPENSATION AUTHORIZED.—The Secretary concerned may pay to any member of the uniformed services described in subsection (b) monthly special compensation in an amount determined under subsection (c).

(b) COVERED MEMBERS.—A member eligible for monthly special compensation authorized by subsection (a) is a member who—

(1) has a catastrophic injury or illness that was incurred or aggravated in the line of duty;

(2) has been certified by a licensed physician to be in need of assistance from another person to perform the personal functions required in everyday living;

(3) in the absence of the provision of such assistance, would require hospitalization, nursing home care, or other residential institutional care; and

(4) meets such other criteria, if any, as the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) prescribes for purposes of this section.

(c) AMOUNT.—The amount of monthly special compensation payable to a member under subsection (a) shall be the amount as follows:

(1) The monthly amount of aid and attendance payable under section 1114(r)(2) of title 38.

(2) Upon the establishment by the Secretary of Veterans Affairs pursuant to subparagraph (C) of section 1720G(a)(3) of title 38 of the schedule of monthly personal caregiver stipends under the Department of Veterans Affairs program of comprehensive assistance for family caregivers under subparagraph (A)(ii)(V) of such section, the monthly personal caregiver stipend payable with respect to similarly circumstanced veterans under such schedule, rather than the amount specified in paragraph (1).

(d) DURATION.—The eligibility of a member to receive special monthly compensation under subsection (a) expires on the earlier of the following:

(1) The last day of the month during which a 90-day period ends that begins on the date of the separation or retirement of the member.

(2) The last day of the month during which the member dies.

(3) The last day of the month during which the member is determined to be no longer afflicted with the catastrophic injury or illness referred to in subsection (b)(1).

(4) The last day of the month preceding the month during which the member begins receiving compensation under section 1114(r)(2) of title 38.

(e) CONSTRUCTION WITH OTHER PAY AND ALLOWANCES.—Monthly special compensation payable to a member under this section is in addition to any other pay and allowances payable to the member by law.

(f) BENEFIT INFORMATION.—(1) The Secretary of Defense, in collaboration with the Secretary of

Veterans Affairs, shall ensure that members of the uniformed services who may be eligible for compensation under this section are made aware of the availability of such compensation by including information about such compensation in written and online materials for such members and their families.

(2) The Secretary of Defense shall ensure that a member eligible to receive special monthly compensation under this section is aware that the member's eligibility for such compensation will expire pursuant to subsection (d)(1) after the end of the 90-day period that begins on the date of the separation or retirement of the member even though the member has not begun to receive compensation under section 1114(r)(2) of title 38 before the end of such period.

(g) CATASTROPHIC INJURY OR ILLNESS DEFINED.—In this section, the term “catastrophic injury or illness” means a permanent, severely disabling injury, disorder, or illness that the Secretary concerned determines compromises the ability of the afflicted person to carry out the activities of daily living to such a degree that the person requires—

(1) personal or mechanical assistance to leave home or bed; or

(2) constant supervision to avoid physical harm to self or others.

(h) REGULATIONS.—The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall prescribe regulations to carry out this section.

(Added Pub. L. 111-84, div. A, title VI, §603(a), Oct. 28, 2009, 123 Stat. 2348; amended Pub. L. 111-383, div. A, title VI, §634, Jan. 7, 2011, 124 Stat. 4241.)

AMENDMENTS

2011—Subsec. (c). Pub. L. 111-383 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the amount of monthly special compensation payable to a member under subsec. (a).

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¹ So in original. Does not conform to section catchline.