

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 report 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  
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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 Administration" for "Department of Health and Human Services" in item 5318.
2001—Pub. L. 107-103, title V, §505(a)(2), Dec. 27, 2001, 115 Stat. 996, added item 5313B.
1996—Pub. L. 104-275, title V, §502(b), Oct. 9, 1996, 110 Stat. 3341, added item 5313A.
1992—Pub. L. 102-568, title VI, §603(b)(2), Oct. 29, 1992, 106 Stat. 4343, added item 5319.
1991—Pub. L. 102-40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3101 to 3118 as 5301 to 5318, respectively.
1990—Pub. L. 101-508, title VIII, §§8051(b)(2), 8053(b)(2), Nov. 5, 1990, 104 Stat. 1388-351, 1388-353, added items 3117 and 3118.
1981—Pub. L. 97-66, title VI, §604(a)(2), Oct. 17, 1981, 95 Stat. 1036, added item 3103A.
1980—Pub. L. 96-466, title VI, §605(a)(2), Oct. 17, 1980, 94 Stat. 2211, added items 3114, 3115, and 3116.
Pub. L. 96-385, title V, §504(b), Oct. 7, 1980, 94 Stat. 1535, added item 3113.
1978—Pub. L. 95-588, title III, §305(b), Nov. 4, 1978, 92 Stat. 2508, added item 3112.
1972—Pub. L. 92-328, title II, §203, June 30, 1972, 86 Stat. 397, substituted "claims by the United States" for "overpayments" in item 3102.
1970—Pub. L. 91-376, §8(c), Aug. 12, 1970, 84 Stat. 790, added item 3111.
1962—Pub. L. 87-825, §4(b), Oct. 15, 1962, 76 Stat. 950, added item 3110.

**§ 5301. Nonassignability and exempt status of benefits**

(a)(1) Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity.

(2) For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving a benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(3)(A) This paragraph is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and in-