

within the Department, is warranted by the medical complexity or controversy involved in an appeal case, the Board may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Department.

(b) The Secretary shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Chairman of the Board. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

(c) The Board shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Board.

(Added Pub. L. 87-671, § 1, Sept. 19, 1962, 76 Stat. 557, § 4009; amended Pub. L. 100-687, div. A, title I, § 103(b), Nov. 18, 1988, 102 Stat. 4107; renumbered § 7109, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102-40 renumbered section 4009 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in two places.

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

1988—Subsec. (a). Pub. L. 100-687, § 103(b)(1), substituted "Board may" for "Board is authorized to".

Subsec. (b). Pub. L. 100-687, § 103(b)(2), substituted "Any such arrangement shall" for "Such arrangement will", and "an individual case shall" for "any individual case will".

Subsec. (c). Pub. L. 100-687, § 103(b)(3), added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100-687, set out as an Effective Date note under section 7251 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1963, see section 4 of Pub. L. 87-671, set out as an Effective Date of 1962 Amendment note under section 5701 of this title.

[§ 7110. Repealed. Pub. L. 103-271, § 7(b)(2), July 1, 1994, 108 Stat. 743]

Section, added Pub. L. 100-687, div. A, title II, § 207(a), Nov. 18, 1988, 102 Stat. 4111, § 4010; renumbered § 7110, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, authorized hearing before traveling sections of the Board.

§ 7111. Revision of decisions on grounds of clear and unmistakable error

(a) A decision by the Board is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

(b) For the purposes of authorizing benefits, a rating or other adjudicative decision of the Board that constitutes a reversal or revision of

a prior decision of the Board on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Board on the Board's own motion or upon request of the claimant.

(d) A request for revision of a decision of the Board based on clear and unmistakable error may be made at any time after that decision is made.

(e) Such a request shall be submitted directly to the Board and shall be decided by the Board on the merits, without referral to any adjudicative or hearing official acting on behalf of the Secretary.

(f) A claim filed with the Secretary that requests reversal or revision of a previous Board decision due to clear and unmistakable error shall be considered to be a request to the Board under this section, and the Secretary shall promptly transmit any such request to the Board for its consideration under this section.

(Added Pub. L. 105-111, § 1(b)(1), Nov. 21, 1997, 111 Stat. 2271.)

EFFECTIVE DATE

Section applicable to any determination made before, on, or after Nov. 21, 1997, see section 1(c)(1) of Pub. L. 105-111, set out as a note under section 5109A of this title.

§ 7112. Expedited treatment of remanded claims

The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the Board of any claim that is remanded to the Secretary by the Court of Appeals for Veterans Claims.

(Added Pub. L. 108-183, title VII, § 707(b)(1), Dec. 16, 2003, 117 Stat. 2673.)

CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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AMENDMENTS

2013—Pub. L. 112-260, title III, § 302(a)(2), Jan. 10, 2013, 126 Stat. 2425, which directed amendment of the table of sections for chapter 72 by adding item 7255 and striking out former item 7255 "Offices", without specifying the Code title to be amended, was executed to the table of sections for this chapter, to reflect the probable intent of Congress.

2008—Pub. L. 110-389, title VI, § 604(b), Oct. 10, 2008, 122 Stat. 4179, added item 7288.

2001—Pub. L. 107-103, title VI, §§ 604(c)(2), 605(b), Dec. 27, 2001, 115 Stat. 1000, substituted "Practice and registration fees" for "Practice fee" in item 7285 and added item 7287.

1999—Pub. L. 106-117, title X, §§ 1021(b), 1024(b), Nov. 30, 1999, 113 Stat. 1592, 1594, added items 7257 and 7299.

1998—Pub. L. 105-368, title V, § 512(a)(3), (4)(A), Nov. 11, 1998, 112 Stat. 3341, substituted "APPEALS FOR VETERANS CLAIMS" for "VETERANS APPEALS" in chapter heading, struck out "of Veterans Appeals" after "Court" in item 7286, substituted "Court decision" for "United States Court of Veterans Appeals decision" in item 7291, and struck out "Court of Veterans Appeals" before "Retirement Fund" in item 7298.

1991—Pub. L. 102-82, § 2(b), Aug. 6, 1991, 105 Stat. 375, added item 7286.

Pub. L. 102-40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 4051 to 4098 as 7251 to 7298, respectively.

1989—Pub. L. 101-94, title I, § 101(b), Aug. 16, 1989, 103 Stat. 625, added subchapter V heading and items 4096 to 4098.

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

§ 7251. Status

There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Appeals for Veterans Claims.

(Added Pub. L. 100-687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4113, § 4051; renumbered § 7251, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105-368, title V, § 511(b), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105-368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

1991—Pub. L. 102-40 renumbered section 4051 of this title as this section.

CHANGE OF NAME

Pub. L. 105-368, title V, § 511(a), Nov. 11, 1998, 112 Stat. 3341, provided that: "The United States Court of Veterans Appeals is hereby renamed as, and shall hereafter be known and designated as, the United States Court of Appeals for Veterans Claims."

Pub. L. 105-368, title V, § 512(c), Nov. 11, 1998, 112 Stat. 3342, provided that: "Any reference in a law, regulation,

document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims."

EFFECTIVE DATE OF 2001 AMENDMENT; CONSTRUCTION

Pub. L. 107-103, title VI, § 603(c), (d), Dec. 27, 2001, 115 Stat. 999, provided that:

"(c) CONSTRUCTION.—The repeal in subsection (a) [repealing section 402 of Pub. L. 100-687, formerly set out as a note below] may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

"(d) APPLICABILITY.—The repeals made by subsections (a) and (b) [repealing section 402 of Pub. L. 100-687, formerly set out as a note below, and section 403 of Pub. L. 100-687, formerly set out as a note under section 5904 of this title] shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

"(1) on or after the date of the enactment of this Act [Dec. 27, 2001]; or

"(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title V, § 513, Nov. 11, 1998, 112 Stat. 3342, provided that: "This subtitle [subtitle B (§§ 511-513) of title V of Pub. L. 105-368, see Tables for classification], and the amendments made by this subtitle, shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE

Pub. L. 100-687, div. A, title IV, § 401, Nov. 18, 1988, 102 Stat. 4122, as amended by Pub. L. 101-94, title III, § 301, Aug. 16, 1989, 103 Stat. 628, provided that:

"(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, this division (and the amendments made by this Act) [div. A (§§ 1-403) of Pub. L. 100-687, known as the 'Veterans' Judicial Review Act', see Tables for classification] shall take effect on September 1, 1989.

"(b) EFFECTIVE DATE FOR CERTAIN TRANSITION PROVISIONS.—The amendment made by section 201(a) [amending section 4001 [now 7101] of this title] shall take effect on February 1, 1989.

"(c) DATE OF ENACTMENT.—Sections 201 (other than subsection (a)), 208, 209, 302, and 303, and the amendments made by those sections [see Tables for classification], shall take effect on the date of the enactment of this Act [Nov. 18, 1988].

"(d) BOARD OF VETERANS' APPEALS.—Sections 202, 203, 205, 206, and 207 [see Tables for classification] shall take effect as of January 1, 1989. Section 204 [amending section 4004 [now 7104] of this title] shall take effect on September 1, 1989.

"(e) COMMENCEMENT OF OPERATION OF COURT OF VETERANS APPEALS.—Notwithstanding subsection (a), the United States Court of Veterans Appeals [now United States Court of Appeals for Veterans Claims] established pursuant to chapter 72 of title 38, United States Code (as added by section 301) shall not begin to operate until at least three judges have been appointed to the court."

CHAPTER APPLICABLE TO CLAIMS ALLEGING PREVIOUS DETERMINATION THE PRODUCT OF CLEAR AND UNMISTAKABLE ERROR

Pub. L. 105-111, § 1(c)(2), Nov. 21, 1997, 111 Stat. 2272, provided that: "Notwithstanding section 402 of the Veterans Judicial Review Act (38 U.S.C. 7251 note), chapter 72 of title 38, United States Code, shall apply with respect to any decision of the Board of Veterans' Appeals on a claim alleging that a previous determination of