

ing claims for extension of such services and assistance) under this chapter received by the Secretary of Veterans Affairs on or after Oct. 9, 1996, including those claims based on original applications, and applications seeking to reopen, revise, reconsider, or otherwise adjudicate or readjudicate on any basis claims for services and assistance under this chapter, see section 101(j) of Pub. L. 104-275, set out as a note under section 3101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-16, §3(b)(2), Mar. 22, 1991, 105 Stat. 49, provided that: "The amendments made by this subsection [amending this section] shall apply only to payments made on or after the date of the enactment of this Act [Mar. 22, 1991]."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-323, §16, May 20, 1988, 102 Stat. 575, provided that:

"(a) IN GENERAL.—Except as provided in subsection (b), the provisions of and amendments made by this Act [see Tables for classification] shall take effect on the date of the enactment of this Act [May 20, 1988].

"(b) EXCEPTIONS.—(1) The following provisions of or amendments made by this Act shall take effect for all of fiscal year 1988 and subsequent fiscal years:

"(A) Clause (5) of subsection (b) of section 2002A [now 4102A] of title 38, United States Code, as added by section 2(a)(2) of this Act.

"(B) Subsection (a) of section 2003A [now 4103A] of such title, as amended by section 2(e)(1)(A) of this Act.

"(C) Paragraphs (1), (2), and (3) of section 2004(a) [now 4104(a)] of such title, as amended by section 3(a) of this Act.

"(D) Paragraphs (2) through (5) of section 1774(a) [now 3674(a)] of such title, as added by section 13(a)(1) of this Act.

"(2) The provisions of and amendments made by sections 4 through 11 [see Tables for classification] shall take effect on the 60th day after the date of the enactment of this Act [May 20, 1988]."

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

BLIND REHABILITATION OUTPATIENT SPECIALISTS

Pub. L. 109-461, title II, §207, Dec. 22, 2006, 120 Stat. 3412, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) There are approximately 135,000 blind veterans throughout the United States, including approximately 35,000 who are enrolled with the Department of Veterans Affairs. An aging veteran population and injuries incurred in Operation Iraqi Freedom and Operation Enduring Freedom are increasing the number of blind veterans.

"(2) Since 1996, when the Department of Veterans Affairs hired its first 14 blind rehabilitation outpatient specialists (referred to in this section as 'Specialists'), Specialists have been a critical part of the continuum of care for blind and visually impaired veterans.

"(3) The Department of Veterans Affairs operates 10 residential blind rehabilitation centers that are considered among the best in the world. These centers have had long waiting lists, with as many as 1,500 blind veterans waiting for openings in 2004.

"(4) Specialists provide—

"(A) critically needed services to veterans who are unable to attend residential centers or are waiting to enter a residential center program;

"(B) a range of services for blind veterans, including training with living skills, mobility, and adaptation of manual skills; and

"(C) pre-admission screening and follow-up care for blind rehabilitation centers.

"(5) There are not enough Specialist positions to meet the increased numbers and needs of blind veterans.

"(b) ESTABLISHMENT OF ADDITIONAL SPECIALIST POSITIONS.—Not later than 30 months after the date of the enactment of this Act [Dec. 22, 2006], the Secretary of Veterans Affairs shall establish an additional Specialist position at not fewer than 35 additional facilities of the Department of Veterans Affairs.

"(c) SELECTION OF FACILITIES.—In identifying the most appropriate facilities to receive a Specialist position under this section, the Secretary shall—

"(1) give priority to facilities with large numbers of enrolled legally blind veterans;

"(2) ensure that each facility does not have such a position; and

"(3) ensure that each facility is in need of the services of a Specialist.

"(d) COORDINATION.—The Secretary shall coordinate the provision of blind rehabilitation services for veterans with services for the care of the visually impaired offered by State and local agencies, especially to the extent to which such State and local agencies can provide necessary services to blind veterans in settings located closer to the residences of such veterans at similar quality and cost to the veteran.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Veterans Affairs to carry out this section \$3,500,000 for each of fiscal years 2007 through 2012."

VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER FORMER SECTION 1504 OF THIS TITLE

During the period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of section 3108 [formerly 1508] of this title, as added by Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2178, shall apply to veterans pursuing a program of vocational rehabilitation training under this chapter in the same manner as former section 1504 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980. See section 802(a)(4) of Pub. L. 96-466, set out as an Effective Date note under section 3100 of this title.

§ 3105. Duration of rehabilitation programs

(a) In any case in which the Secretary is unable to determine whether it currently is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 3106(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Secretary determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonably feasible in the case of such veteran.

(b)(1) Except as provided in paragraph (2) and in subsection (c), the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 3104(a)(2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Secretary determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

(2) The period of a vocational rehabilitation program pursued by a veteran under section 3102(b) of this title following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed 12 months.

(c) The Secretary may extend the period of a vocational rehabilitation program for a veteran to the extent that the Secretary determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the Secretary also determines—

(1) that such veteran had previously been rehabilitated to the point of employability but (A) such veteran's need for further vocational rehabilitation has arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated is not suitable in view of such veteran's current employment handicap and capabilities; or

(2) under regulations which the Secretary shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d)(1) Except as provided in paragraph (2), the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the Secretary that such veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible) may not exceed twenty-four months.

(2)(A) The period of a program of independent living services and assistance for a veteran under this chapter may exceed twenty-four months as follows:

(i) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran's level of independence in daily living.

(ii) If the veteran served on active duty during the Post-9/11 Global Operations period and has a severe disability (as determined by the Secretary for purposes of this clause) incurred or aggravated in such service.

(B) In this paragraph, the term "Post-9/11 Global Operations period" means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(e)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of a subsistence allowance and other assistance described in paragraph (2) shall not—

(A) be charged against any entitlement of any veteran under this chapter; or

(B) be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of allowance or assistance.

(2) The payment of the subsistence allowance and other assistance referred to in paragraph (1) is the payment of such an allowance or assistance for the period described in paragraph (3) to a veteran for participation in a vocational rehabilitation program under this chapter if the Sec-

retary finds that the veteran had to suspend or discontinue participation in such vocational rehabilitation program as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

(3) The period for which, by reason of this subsection, a subsistence allowance and other assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall be the period of participation in the vocational rehabilitation program for which the veteran failed to receive credit or with respect to which the veteran lost training time, as determined by the Secretary.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2176, §1505; amended Pub. L. 99-576, title III, §333(b)(3), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3105 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-275, title I, §101(e), Oct. 9, 1996, 110 Stat. 3324; Pub. L. 107-103, title I, §103(c)(1), Dec. 27, 2001, 115 Stat. 979; Pub. L. 110-389, title III, §331, Oct. 10, 2008, 122 Stat. 4170; Pub. L. 112-56, title II, §233(a)(2), Nov. 21, 2011, 125 Stat. 720.)

PRIOR PROVISIONS

Prior section 3105 was renumbered section 5305 of this title.

AMENDMENTS

2011—Subsec. (b). Pub. L. 112-56 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2) and in subsection (c)" for "Except as provided in subsection (c) of this section", and added par. (2).

2008—Subsec. (d). Pub. L. 110-389 substituted "(1) Except as provided in paragraph (2)," for "Unless the Secretary determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living;" and added par. (2).

2001—Subsec. (e). Pub. L. 107-103 added subsec. (e).

1996—Subsec. (c)(1). Pub. L. 104-275 substituted "veteran's current employment" for "veteran's employment".

1991—Pub. L. 102-83, §5(a), renumbered section 1505 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3106(c)" for "1506(c)".

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted "3104(a)(2)" for "1504(a)(2)".

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (a). Pub. L. 99-576, §333(b)(3)(A), inserted "currently" after "it".

Subsec. (b). Pub. L. 99-576, §333(b)(3)(B), inserted "current" after "of the".

Subsec. (d). Pub. L. 99-576, §333(b)(3)(C), inserted "currently" after "goal".

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-56 effective June 1, 2012, and applicable with respect to rehabilitation programs beginning after such date, see section 233(c) of Pub. L. 112-56, set out as a note under section 3102 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107-103, set out as a note under section 3013 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

§ 3106. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The Secretary shall provide any veteran who has a service-connected disability rated at 10 percent or more and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 3104(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

(A) whether such veteran has a serious employment handicap, and

(B) whether the achievement of a vocational goal currently is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

(b) In any case in which the Secretary has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal currently is reasonably feasible for such veteran, such veteran shall be provided an individualized written plan of vocational rehabilitation developed under section 3107(a) of this title.

(c) In any case in which the Secretary has determined that a veteran has a serious employment handicap but the Secretary is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with an extended evaluation consisting of the services described in section 3104(a)(1) of this title, such services under this chapter as the Secretary determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 3108 of this title.

(d) In any case in which the Secretary has determined that a veteran has a serious employment handicap and also determines, following such initial and any such extended evaluation, that achievement of a vocational goal currently is not reasonably feasible, the Secretary shall determine whether the veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title.

(e) The Secretary shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran currently is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 3105(a) of this title), the Secretary shall make such determination not later than the end of such extended evalua-

tion or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the Secretary shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

(f) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Secretary shall assign a Department of Veterans Affairs employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 3117 of this title) and assistance under this chapter to such veteran.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2176, §1506; amended Pub. L. 99-576, title III, §333(b)(4), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101-237, title IV, §423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered §3106 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, §1201(d)(9), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104-275, title I, §101(f)(1), Oct. 9, 1996, 110 Stat. 3324.)

PRIOR PROVISIONS

Prior section 3106 was renumbered section 5306 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-275, §101(f)(1)(A), substituted "rated at 10 percent or more" for "described in clause (i) or (ii) of section 3102(1)(A) of this title".

Subsec. (b). Pub. L. 104-275, §101(f)(1)(B), struck out "counseling in accordance with" before "an individualized written plan".

Subsec. (c). Pub. L. 104-275, §101(f)(1)(C), substituted "with an extended" for "with extended".

Subsecs. (d) to (f). Pub. L. 104-275, §101(f)(1)(D), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1994—Subsec. (a). Pub. L. 103-446 substituted "clause (i) or (ii) of section 3102(1)(A)" for "section 3102(1)(A) or (B)".

1991—Pub. L. 102-83, §5(a), renumbered section 1506 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3102(1)(A)" for "1502(1)(A)" and "3104(a)(1)" for "1504(a)(1)" in introductory provisions.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted "3107(a)" for "1507(a)".

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted "3104(a)(1)" for "1504(a)(1)" and "3108" for "1508".

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted "3105(a)" for "1505(a)".

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted "3117" for "1517".

1989—Pub. L. 101-237 substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively, wherever appearing.

1986—Subsecs. (a)(2)(B), (b) to (d). Pub. L. 99-576 substituted "currently is reasonably feasible" for "is reasonably feasible" wherever appearing.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

§ 3107. Individualized vocational rehabilitation plan

(a) The Secretary shall formulate an individualized written plan of vocational rehabilitation