

abilities in use by the Department of Veterans Affairs at the time of the determination. (Aug. 10, 1956, ch. 1041, 70A Stat. 93; Pub. L. 99-145, title V, §513(a)(1)(A), Nov. 8, 1985, 99 Stat. 627; Pub. L. 99-661, div. A, title VI, §604(d)(1), (2)(A), Nov. 14, 1986, 100 Stat. 3876; Pub. L. 101-189, div. A, title XVI, §1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 102-484, div. A, title V, §516(a), Oct. 23, 1992, 106 Stat. 2407; Pub. L. 104-201, div. A, title V, §534, Sept. 23, 1996, 110 Stat. 2521; Pub. L. 105-85, div. A, title V, §513(c)(1), (d)(1), Nov. 18, 1997, 111 Stat. 1730, 1731; Pub. L. 106-65, div. A, title V, §578(i)(3), Oct. 5, 1999, 113 Stat. 629; Pub. L. 107-107, div. A, title V, §513(b), Dec. 28, 2001, 115 Stat. 1093.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1204	37:271(a). 37:272(c) (less clause (5), and less last proviso). 37:272(f) (as applicable to 37:272(c)).	Oct. 12, 1949, ch. 681, §§ 401(a), 402(c) (less clause (5), and less last proviso), 402(f) (as applicable to §402(c)), 63 Stat. 816, 817, 820.

37:271(a) is omitted as surplusage. As it relates to retirement it is only a statement of the general coverage of the retirement sections of this chapter. As it relates to separation it is only a statement of the general coverage of the separation sections of this chapter. The words "a member * * * not covered by section 1201, 1202, or 1203 of this title" are substituted for the words "a member * * * other than those members covered in subsections (a) and (b) of this section". The words "if the Secretary also determines that" are substituted for the words "That if condition (5) above is met by a finding that", in 37:272(c). The words "of such member", "upon retirement", and "to receive", in 37:272(c), are omitted as surplusage.

In clause (1), the words "based upon accepted medical principles" are inserted as a necessary implication of the rule stated in 37:272(c)(5).

In clause (2), the word "disability" is substituted for the word "injury" to make clear, in view of 37:278, that members on active duty for 30 days or less are on the same footing as those on active duty for a longer period, with respect to the effect of misconduct or neglect.

In clause (3), the words "and was not incurred during a period of unauthorized absence" are inserted to conform to other revised sections of this chapter and because of section 1207 of this title. The words "full-time training duty, other full-time duty" are omitted as covered by the words "active duty".

Clause (4)(A) is substituted for 37:272(f) (as applicable to 37:272(c)). 37:272(f) (proviso) is omitted as surplusage.

In clause (4)(B), the words "at the time of the determination" are substituted for the word "current", in 37:272(c).

AMENDMENTS

2001—Par. (2)(B)(iii). Pub. L. 107-107, struck out "if the site of the inactive-duty training is outside reasonable commuting distance of the member's residence" before semicolon.

1999—Par. (2)(C). Pub. L. 106-65 added subpar. (C).

1997—Pub. L. 105-85, §513(d)(1), amended section catchline generally, inserting "or on inactive-duty training" after "30 days or less".

Par. (2). Pub. L. 105-85, §513(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the disability is the proximate result of, or was incurred in line of duty after the date of the enactment of this Act as a result of—

"(A) performing active duty or inactive-duty training;

"(B) traveling directly to or from the place at which such duty is performed; or

"(C) an injury, illness, or disease incurred or aggravated while remaining overnight, between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive duty training, if the site is outside reasonable commuting distance of the member's residence;".

1996—Par. (2). Pub. L. 104-201 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "the disability is the proximate result of performing active duty or inactive-duty training or of traveling directly to or from the place at which such duty is performed;".

1992—Par. (2). Pub. L. 102-484 inserted before semicolon at end "or of traveling directly to or from the place at which such duty is performed".

1989—Par. (4)(B). Pub. L. 101-189 substituted "Department of Veterans Affairs" for "Veterans' Administration".

1986—Pub. L. 99-661 struck out "disability from injury" after "30 days or less" in section catchline and "resulting from an injury" after "because of physical disability" in provisions preceding par. (1).

1985—Par. (1). Pub. L. 99-145 inserted "and stable" after "permanent nature".

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title V, §516(b), Oct. 23, 1992, 106 Stat. 2407, provided that: "The amendments made by subsection (a) [amending this section and section 1206 of this title] shall take effect with respect to disabilities incurred on or after November 14, 1986, but any benefits or services payable by reason of the applicability of those amendments during the period beginning on November 14, 1986, and ending on the date of the enactment of this Act [Oct. 23, 1992] shall be subject to the availability of appropriations."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99-661, set out as a note under section 1074a of this title.

§ 1205. Members on active duty for 30 days or less: temporary disability retired list

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title would be qualified for retirement under section 1204 of this title but for the fact that his disability is not determined to be of a permanent nature and stable, the Secretary shall, if he also determines that accepted medical principles indicate that the disability may be of a permanent nature, place the member's name on the temporary disability retired list, with retired pay computed under section 1401 of this title.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94; Pub. L. 99-145, title V, §513(a)(1)(B), Nov. 8, 1985, 99 Stat. 627; Pub. L. 99-661, div. A, title VI, §604(d)(2)[(B)], Nov. 14, 1986, 100 Stat. 3876.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1205	37:272(c) (clause (5)).	Oct. 12, 1949, ch. 681, § 402(c) (clause (5)), 63 Stat. 818.

The first 52 words are inserted for clarity and are based on the rule stated in section 1204 of this title, which restates that part of 37:272(c) relating to retirement for physical disability. The revised section incorporates by reference those provisions which are identical for retirement and for placement on the temporary disability retired list. This is possible, since

37:272(f) applies to placement on the temporary disability retired list as well as to retirement (see opinion of the Judge Advocate General of the Army (JAGA 1953/1900, 9 Mar. 1953)).

AMENDMENTS

1986—Pub. L. 99-661 struck out “; disability from injury” after “30 days or less” in section catchline.

1985—Pub. L. 99-145 inserted “and stable” after “determined to be of a permanent nature”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-661 applicable with respect to persons who, after Nov. 14, 1986, incur or aggravate an injury, illness, or disease or die, see section 604(g) of Pub. L. 99-661, set out as a note under section 1074a of this title.

§ 1206. Members on active duty for 30 days or less or on inactive-duty training; separation

Upon a determination by the Secretary concerned that a member of the armed forces not covered by section 1201, 1202, or 1203 of this title is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the member may be separated from his armed force, with severance pay computed under section 1212 of this title, if the Secretary also determines that—

(1) the member has less than 20 years of service computed under section 1208 of this title;

(2) the disability is a result of an injury, illness, or disease incurred or aggravated in line of duty—

(A) while—

(i) performing active duty or inactive-duty training;

(ii) traveling directly to or from the place at which such duty is performed; or

(iii) remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance of the member's residence; or

(B) while the member—

(i) was serving on funeral honors duty under section 12503 of this title or section 115 of title 32;

(ii) was traveling to or from the place at which the member was to so serve; or

(iii) remained overnight at or in the vicinity of that place immediately before so serving;

(3) the disability is not the result of the member's intentional misconduct or willful neglect, and was not incurred during a period of unauthorized absence;

(4) based upon accepted medical principles, the disability is or may be of a permanent nature; and

(5) the disability is less than 30 percent under the standard schedule of rating disabilities in use by the Department of Veterans Affairs at the time of the determination, and, in the case of a disability incurred before October 5, 1999, was the proximate result of performing active duty or inactive-duty training or of traveling directly to or from the place at which such duty is performed.

However, if the member is eligible for transfer to the inactive status list under section 1209 of this title, and so elects, he shall be transferred to that list instead of being separated.

(Aug. 10, 1956, ch. 1041, 70A Stat. 94; Pub. L. 99-661, div. A, title VI, § 604(d)(1), (3), Nov. 14, 1986, 100 Stat. 3876; Pub. L. 101-189, div. A, title XVI, § 1621(a)(1), Nov. 29, 1989, 103 Stat. 1602; Pub. L. 102-484, div. A, title V, § 516(a), Oct. 23, 1992, 106 Stat. 2407; Pub. L. 105-85, div. A, title V, § 513(c)(2), (d)(2), Nov. 18, 1997, 111 Stat. 1731; Pub. L. 106-65, div. A, title V, § 578(i)(4), title VI, § 653(c), Oct. 5, 1999, 113 Stat. 629, 667; Pub. L. 107-107, div. A, title V, § 513(b), title X, § 1048(c)(6), Dec. 28, 2001, 115 Stat. 1093, 1226.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1206	37:272(c) (last proviso).	Oct. 12, 1949, ch. 681, § 402(c) (last proviso), 63 Stat. 818.

To state fully in the revised section the rule contained in 37:272(c) (last proviso), the provisions of 37:272(c) (less clause (5), and less 1st proviso), and 272(f) (as applicable to 272(c)), also contained in section 1204 of this title, are repeated. The words “the member may be separated” are substituted for the words “the member concerned shall not be eligible for any disability retirement provided in this section, but may be separated for physical disability”.

Clause (1) is inserted for clarity, since a member who had over 20 years of service would qualify under section 1204 or 1205 of this title.

The last sentence of the revised section, relating to transfer to the inactive status list, is inserted for clarity because of section 1209 of this title.

AMENDMENTS

2001—Par. (2)(B)(iii). Pub. L. 107-107, § 513(b), struck out “, if the place is outside reasonable commuting distance from the member's residence” before semicolon at end.

Par. (5). Pub. L. 107-107, § 1048(c)(6), substituted “October 5, 1999,” for “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000.”.

1999—Par. (2). Pub. L. 106-65, § 578(i)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the disability is a result of an injury, illness, or disease incurred or aggravated in line of duty while—

“(A) performing active duty or inactive-duty training;

“(B) traveling directly to or from the place at which such duty is performed; or

“(C) while remaining overnight immediately before the commencement of inactive-duty training, or while remaining overnight between successive periods of inactive-duty training, at or in the vicinity of the site of the inactive-duty training, if the site is outside reasonable commuting distance of the member's residence;”.

Par. (5). Pub. L. 106-65, § 653(c), inserted “, in the case of a disability incurred before the date of the enactment of the National Defense Authorization Act for Fiscal Year 2000,” after “determination, and”.

1997—Pub. L. 105-85, § 513(d)(2), amended section catchline generally, inserting “or on inactive-duty training” after “30 days or less”.

Pars. (2) to (5). Pub. L. 105-85, § 513(c)(2), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

1992—Par. (4). Pub. L. 102-484 inserted before period at end “or of traveling directly to or from the place at which such duty is performed”.

1989—Par. (4). Pub. L. 101-189 substituted “Department of Veterans Affairs” for “Veterans' Administration”.