

§ 8140. Members of the Reserve Officers' Training Corps

(a) Subject to the provisions of this section, this subchapter applies to a member of, or applicant for membership in, the Reserve Officers' Training Corps of the Army, Navy, or Air Force who suffers an injury, disability, or death incurred, or an illness contracted, in line of duty—

(1) while engaged in a flight or in flight instruction under chapter 103 of title 10; or

(2) during the period of the member's attendance at training or a practice cruise under chapter 103 of title 10, United States Code, beginning when the authorized travel to the training or practice cruise begins and ending when authorized travel from the training or practice cruise ends.

(b) For the purpose of this section, an injury, disability, death, or illness of a member referred to in subsection (a) may be considered as incurred or contracted in line of duty only if the injury, disability, or death is incurred, or the illness is contracted, by the member during a period described in that subsection. Subject to review by the Secretary of Labor, the Secretary of the military department concerned (under regulations prescribed by that Secretary), shall determine whether an injury, disability, or death was incurred, or an illness was contracted, by a member in line of duty.

(c) In computing the compensation payable under this section, the monthly pay received by the injured or deceased individual, in cash and kind, is deemed \$150.

(d) The Secretary of the military department concerned shall cooperate fully with the Department of Labor in the prompt investigation and prosecution of a case involving the legal liability of a third party other than the United States.

(e) An individual may not receive disability benefits under this section while on active duty with the armed forces, but these benefits may be reinstated when the individual is released from that active duty.

(f) Expenses incurred by a military department in providing hospitalization, medical and surgical care, necessary transportation incident to that hospitalization or medical and surgical care, or in connection with a funeral and burial on behalf of an individual covered by subsection (a) of this section shall be reimbursed by the Secretary of Labor from the Employees' Compensation Fund in accordance with this subchapter. However, reimbursement may not be made for hospitalization or medical or surgical care provided an individual by a military department in a facility of a military department.

(g) For purposes of this section, the term "applicant for membership" includes a student enrolled, during a semester or other enrollment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 550; Pub. L. 100-456, div. A, title VI, § 633(b), Sept. 29, 1988, 102 Stat. 1986; Pub. L. 105-261, div. A, title VI, § 655(a)-(c), Oct. 17, 1998, 112 Stat. 2053.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 802.	Aug. 1, 1956, ch. 830, § 4, 70 Stat. 805. Oct. 13, 1964, Pub. L. 88-647, § 302, 78 Stat. 1073.

In subsection (a), the words "Subject to the provisions of this section" are added for clarity.

In subsection (c), the last sentence of former section 802(b) is omitted as unnecessary.

In subsection (d), the words "Nothing in this section shall be construed to hinder the prompt action authorized by sections 776 and 777 of this title in any case involving the legal liability of a third party other than the United States" are omitted as unnecessary as there is nothing in the section that reasonably could be so construed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-261, § 655(c), inserted ", or an illness contracted," after "death incurred" in introductory provisions.

Subsec. (a)(2). Pub. L. 105-261, § 655(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "while performing authorized travel to or from, or while attending, training or a practice cruise under chapter 103 of title 10."

Subsec. (b). Pub. L. 105-261, § 655(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "For the purpose of this section, an injury is incurred in line of duty only if it is the proximate result of the performance of military training by the member concerned, or of his travel to or from that training, during the periods specified by subsection (a)(2) of this section. A member or applicant for membership who contracts a disease or illness which is the proximate result of the performance of training during the periods specified by subsection (a)(2) of this section is considered for the purpose of this section to have been injured in line of duty during that period. Subject to review by the Secretary of Labor, the Secretary of the military department concerned, under regulations prescribed by him, shall determine whether or not an injury, disease, or illness was incurred or contracted in line of duty and was the proximate result of the performance of military training by the member concerned or of his travel to or from that military training."

1988—Subsec. (a). Pub. L. 100-456, § 633(b)(1)(A), substituted "who suffers an injury, disability, or death" for "who suffers disability or death from an injury" in introductory provisions.

Subsec. (a)(2). Pub. L. 100-456, § 633(b)(1)(B), struck out "field" before "training".

Subsec. (f). Pub. L. 100-456, § 633(b)(2), substituted "by a military department in a facility of a military department" for "while attending field training or a practice cruise under chapter 103 of title 10".

Subsec. (g). Pub. L. 100-456, § 633(b)(3), added subsec. (g).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-261, div. A, title VI, § 655(d), Oct. 17, 1998, 112 Stat. 2053, provided that: "The amendments made by subsections (a) and (b) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1998] and apply with respect to injuries, illnesses, disabilities, and deaths incurred or contracted on or after that date."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-456 applicable only with respect to training performed after Sept. 30, 1988, see

section 633(e) of Pub. L. 100-456, set out as a note under section 2109 of Title 10, Armed Forces.

DIFFERENT COVERAGE FOR RESERVE OFFICER TRAINING CORPS MEMBERS

Pub. L. 97-306, title I, §113(c), Oct. 14, 1982, 96 Stat. 1432, provided that: "Notwithstanding section 8140 of title 5, United States Code, subchapter I of chapter 81 of such title does not apply in the case of a disability suffered by a member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force that is compensable under chapter 11 of title 38, United States Code, or a death suffered by such a member for which dependency and indemnity compensation is payable under chapter 13 of such title [section 401 et seq. of Title 38]."

[Section 113(d) of Pub. L. 97-306 provided that these provisions shall apply only with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982.]

§ 8141. Civil Air Patrol volunteers

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet under 18 years of age.

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section—

(1) the monthly pay of a member is deemed the rate of basic pay payable for step 1 of grade GS-9 in the General Schedule under section 5332 of this title for the purpose of computing compensation for disability or death;

(2) the percentages applicable to payments under section 8133 of this title are—

(A) 45 percent for section 8133(a)(2) of this title, if the member dies fully or currently insured under subchapter II of chapter 7 of title 42, with no additional payments for a child or children while the widow or widower remains eligible for payments under section 8133(a)(2) of this title;

(B) 20 percent for section 8133(a)(3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of 75 percent, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and

(C) 25 percent for section 8133(a)(4) of this title, if one parent was wholly dependent on the deceased member at the time of his death and the other was not dependent to any extent; 16 percent to each, if both were wholly dependent; and if one was or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) a payment may not be made under section 8133(a)(5) of this title;

(4) "performance of duty" means only active service, and travel to and from that service, rendered in performance or support of operational missions of the Civil Air Patrol under direction of the Department of the Air Force and under written authorization by competent authority covering a specific assignment and prescribing a time limit for the assignment; and

(5) the Secretary of Labor or his designee shall inform the Commissioner of Social Security when a claim is filed and eligibility for compensation is established under section

8133(a)(2) or (3) of this title, and the Commissioner of Social Security shall certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under subchapter II of chapter 7 of title 42 at the time of his death.

(c) The Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee when a claim is filed. The Secretary of the Air Force, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 551; Pub. L. 98-94, title XII, §1258(a), Sept. 24, 1983, 97 Stat. 702; Pub. L. 103-296, title I, §108(e)(4), Aug. 15, 1994, 108 Stat. 1486.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 803 (less (d)).	Aug. 3, 1956, ch. 926, §1 "Sec. 3 (less (d))", 70 Stat. 980.

Subsection (d) of former section 803, providing for retroactive applicability, is omitted as executed (see Table II).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Subchapter II of chapter 7 of title 42, referred to in text, is section 401 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1994—Subsec. (b)(5). Pub. L. 103-296 substituted "Commissioner of Social Security" for "Secretary of Health, Education, and Welfare" in two places.

1983—Subsec. (a). Pub. L. 98-94, §1258(a)(1), inserted "under 18 years of age" after "Civil Air Patrol Cadet".

Subsec. (b)(1). Pub. L. 98-94, §1258(a)(2), substituted "the rate of basic pay payable for step 1 of grade GS-9 in the General Schedule under section 5332 of this title" for "\$300".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title XII, §1258(b), Sept. 24, 1983, 97 Stat. 702, provided that:

"(1) The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Sept. 24, 1983].

"(2) The amendment made by subsection (a)(1) [amending this section] shall apply only to deaths or injuries occurring on or after the date of the enactment of this Act [Sept. 24, 1983].

"(3) The amendment made by subsection (a)(2) [amending this section] shall apply only to the computation of compensation payable for periods commencing on or after the date of the enactment of this Act [Sept. 24, 1983]."