

§ 3017. Death benefit

(a)(1) In the event of the service-connected death of any individual—

(A) who—

(i) is entitled to basic educational assistance under this chapter; or

(ii) is on active duty in the Armed Forces and but for clause (1)(A)(i) or clause (2) of section 3011(a) or clause (1)(A)(i) or (ii) or clause (2) of section 3012(a) of this title would be eligible for such basic educational assistance; and

(B) who dies while on active duty or within one year after discharge or release from active duty,

the Secretary shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemembers' Group Life Insurance policy.

(ii) The surviving spouse of the individual.

(iii) The surviving child or children of the individual, in equal shares.

(iv) The surviving parent or parents of the individual, in equal shares.

(B) If no such person survives such individual, no payment shall be made under this section.

(b) The amount of any payment made under this section shall be equal to—

(1) the total of—

(A) the amount reduced from the individual's basic pay under section 3011(b), 3012(c), 3018(c), 3018A(b), 3018B(b), 3018C(b), or 3018C(e) of this title;

(B) the amount reduced from the individual's retired pay under section 3018C(e) of this title;

(C) the amount collected from the individual by the Secretary under section 3018B(b), 3018C(b), or 3018C(e) of this title; and

(D) the amount of any contributions made by the individual under section 3011(e) or 3012(f) of this title, less

(2) the total of—

(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 3035(b)(1), it shall be considered to be an entitlement earned under this chapter.

(Added Pub. L. 100-689, title I, §101(a), Nov. 18, 1988, 102 Stat. 4161, §1417; amended Pub. L. 101-237, title IV, § 423(a)(3), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2091, 2092; renumbered §3017 and amend-

ed Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §308, Oct. 29, 1992, 106 Stat. 4329; Pub. L. 104-275, title IV, §405(c)(2), Oct. 9, 1996, 110 Stat. 3340; Pub. L. 106-419, title I, §102(a)(2), Nov. 1, 2000, 114 Stat. 1824; Pub. L. 107-14, §7(d)(1), June 5, 2001, 115 Stat. 33; Pub. L. 109-233, title V, §503(4), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (b)(1)(D). Pub. L. 109-233 substituted “3011(e)” for “3011(c)”.

2001—Subsec. (b)(1). Pub. L. 107-14 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the amount reduced from the individual's pay under section 3011(b), 3012(c), or 3018(c) of this title, less”.

2000—Subsec. (a)(1)(A)(ii). Pub. L. 106-419 substituted “clause (2) of section 3011(a)” for “clause (2)(A) of section 3011(a)”.

1996—Subsec. (a)(2)(A)(i). Pub. L. 104-275 substituted “Servicemembers' Group” for “Servicemen's Group”.

1992—Subsec. (a)(1)(B). Pub. L. 102-568 inserted before comma “or within one year after discharge or release from active duty”.

1991—Pub. L. 102-83, §5(a), renumbered section 1417 of this title as this section.

Subsec. (a)(1)(A)(ii). Pub. L. 102-83, §5(c)(1), substituted “3011(a)” for “1411(a)” and “3012(a)” for “1412(a)”.

Subsec. (b)(1). Pub. L. 102-83, §5(c)(1), substituted “3011(b), 3012(c), or 3018(c)” for “1411(b), 1412(c), or 1418(c)”.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3035(b)(1)” for “1435(b)(1)”.

1989—Subsec. (a)(1). Pub. L. 101-237, § 423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (a)(1)(A)(ii). Pub. L. 101-237, § 423(a)(3), substituted “but for clause (1)(A)(i) or clause (2)(A) of section 1411(a) or clause (1)(A)(i) or (ii) or clause (2) of section 1412(a) of this title” for “but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title”.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, §7(d)(2), June 5, 2001, 115 Stat. 33, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as of May 1, 2001.”

EFFECTIVE DATE

Pub. L. 100-689, title I, §101(c), Nov. 18, 1988, 102 Stat. 4162, provided that: “The amendments made by this section [enacting this section] shall take effect as of July 1, 1985.”

§ 3018. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the “open period”), an individual who—

(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary