

proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title and shall—

(1) take due account of the Secretary's application of section 5107(b) of this title; and

(2) take due account of the rule of prejudicial error.

(c) In no event shall findings of fact made by the Secretary or the Board of Veterans' Appeals be subject to trial de novo by the Court.

(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of the party to comply with any applicable regulation prescribed by the Secretary, the Court shall review only questions raised as to compliance with and the validity of the regulation.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4115, §4061; amended Pub. L. 101-237, title VI, §602(c), Dec. 18, 1989, 103 Stat. 2095; renumbered §7261, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, §14(e)(3), June 13, 1991, 105 Stat. 287; Pub. L. 102-83, §4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405; Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107-330, title IV, §401(a), (b), Dec. 6, 2002, 116 Stat. 2832.)

AMENDMENTS

2002—Subsec. (a)(4). Pub. L. 107-330, §401(a), inserted “adverse to the claimant” after “material fact” and “or reverse” after “and set aside”.

Subsec. (b). Pub. L. 107-330, §401(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In making the determinations under subsection (a) of this section, the Court shall take due account of the rule of prejudicial error.”

1998—Subsec. (a). Pub. L. 105-368 substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals” in introductory provisions.

1991—Pub. L. 102-40 renumbered section 4061 of this title as this section.

Subsec. (a)(1) to (3). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (a)(4). Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans Administration”.

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans Administration”.

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

Pub. L. 102-54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102-40 by substituting “Court” for “court”.

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

1989—Subsec. (a)(2). Pub. L. 101-237 inserted “or unreasonably delayed” after “withheld”.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-330, title IV, §401(c), Dec. 6, 2002, 116 Stat. 2832, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 6, 2002].

“(2) The amendments made by this section shall apply with respect to any case pending for decision before the United States Court of Appeals for Veterans Claims other than a case in which a decision has been entered before the date of the enactment of this Act.”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov.

11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

§ 7262. Fee for filing appeals

(a) The Court of Appeals for Veterans Claims may impose a fee of not more than \$50 for the filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

(b) The Court may from time to time adjust the maximum amount permitted for a fee imposed under subsection (a) of this section based upon inflation and similar fees charged by other courts established under Article I of the Constitution.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4115, §4062; renumbered §7262, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105-368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted “Court of Appeals for Veterans Claims” for “Court of Veterans Appeals”.

1991—Pub. L. 102-40 renumbered section 4062 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105-368, set out as a note under section 7251 of this title.

§ 7263. Representation of parties; fee agreements

(a) The Secretary shall be represented before the Court of Appeals for Veterans Claims by the General Counsel of the Department.

(b) Representation of appellants shall be in accordance with the rules of practice prescribed by the Court under section 7264 of this title. In addition to members of the bar admitted to practice before the Court in accordance with such rules of practice, the Court may allow other persons to practice before the Court who meet standards of proficiency prescribed in such rules of practice.

(c) A person who represents an appellant before the Court shall file a copy of any fee agreement between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

(d) In reviewing a fee agreement under subsection (c) of this section or under section 5904(c)(2) of this title, the Court may affirm the finding or order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4116, §4063; renumbered §7263 and amended Pub. L. 102-40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239;