(D) living on the date when the member is retired or becomes entitled to retired or retainer pay or, if the member was already retired or entitled to retired or retainer pay on November 1, 1953, living on that date; and

(E) born on or before the date prescribed in clause (D).

For the purposes of clause (2)(B), a child is considered to be pursuing a full-time course of study or training during an interval between school years that does not exceed one hundred and fifty days if he has demonstrated to the satisfaction of the Secretary concerned that he has a bonafide intention of commencing, resuming, or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after that interval.

(Aug. 10, 1956, ch. 1041, 70A Stat. 110; Pub. L. 90–485, §1(4), (5), Aug. 13, 1968, 82 Stat. 752; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1435(1)	37:371(e).	Aug. 8, 1953, ch. 393, §2(e), (f), 67 Stat. 501.
1435(2)	37:371(f).	

In clauses (1) and (2), the words "is retired or becomes entitled to retired or retainer pay" are substituted for the words "retired member", since the words "retired member", as defined in the source statute, included former members who have been awarded that pay.

In clause (1), the words "'widow' includes a widower" are omitted as covered by the definition of "spouse" in section 101(32) of this title.

AMENDMENTS

1972—Pub. L. 92–425 substituted "subchapter" for "chapter".

1968—Pub. L. 90–485 inserted provisions in cl. (2)(B) concerning children of the member who are at least 18, but under 23 and pursuing a full-time course of study or training and inserted text following cl. (2)(E) relating to children considered to be pursuing a full-time course of study or training.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–485 effective on first day of third calendar month following Aug. 13, 1968, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

§ 1436. Computation of reduction in retired pay; withdrawal for severe financial hardship

(a) The reduction in the retired or retainer pay of any person who elects an annuity under this subchapter shall be computed by the armed force concerned as of the date when the person becomes eligible for that pay but without regard to any increase in that pay to reflect changes in the Consumer Price Index. It shall be computed under an actuarial equivalent method based on (1) appropriate actuarial tables selected by the Board of Actuaries, and (2) an interest rate of 3 percent a year, or such other rate as the Secretary of the Treasury, after considering the average yield on outstanding marketable long-term obligations of the United States during the preceding six months, may specify by August 1 of any year for the following year. The method and tables shall be those in effect on the date as of which the computation is made.

(b) Under regulations prescribed under section 1444(a) of this title, the Secretary concerned may, upon application by the retired member, allow the member—

(1) to reduce the amount of the annuity specified by him under section 1434(a) and 1434(b) of this title but to not less than the prescribed minimum; or

(2) to withdraw from participation in an annuity program under this title; or

(3) to elect the annuity provided under clause (1) of section 1434(a) of this title in place of the annuity provided under clause (3) of such section, if on the first day for which retired or retainer pay is granted the member had in effect a valid election under clause (3) of such section, and he does not have a child beneficiary who would be eligible for the annuity provided under clause (3) of such section. For this purpose, a child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) who is at least eighteen, but under twenty-three years of age shall not be considered an eligible beneficiary; or

(4) to elect that a child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) who is at least eighteen, but under twenty-three years of age shall not be considered eligible for the annuity provided under clause (2) of section 1434(a) of this title, or for an annuity provided under section 1434(b) of this title, if on the first day for which retired or retainer pay is granted the member had in effect a valid election under clause (2) of section 1434(a) of this title, or under section 1434(b) of this title.

A retired member may not reduce an annuity under clause (1) of this subsection, or withdraw under clause (2) of this subsection, earlier than the first day of the seventh calendar month beginning after he applies for reduction or withdrawal. A change of election under clause (3) of this subsection shall be effective on the first day of the month following the month in which application is made. An election under clause (4) of this subsection shall be effective on the first day of the month following the month in which application is made and, if on the effective date there is no surviving child who would be eligible for an annuity provided under clause (2) of section 1434(a), or under section 1434(b), of this title if the elector died, no deduction shall be made for such an annuity to, or on behalf of, a child from the elector's retired or retainer pay for that month or any subsequent month. No amounts by which a member's retired or retainer pay is reduced prior to the effective date of a reduction of annuity, withdrawal, change of election, or election under this subsection may be refunded to, or credited on behalf of, the member by virtue of an application made by him under this subsection.

(Aug. 10, 1956, ch. 1041, 70A Stat. 110; Pub. L. 87–381, §4, Oct. 4, 1961, 75 Stat. 811; Pub. L. 90–207, §2(a)(3), Dec. 16, 1967, 81 Stat. 653; Pub. L. 90–485, §1(6), Aug. 13, 1968, 82 Stat. 753; Pub. L. 92–425, §1(2)(A), Sept. 21, 1972, 86 Stat. 706; Pub. L.

104–106, div. A, title XV, §1505(c), Feb. 10, 1996, 110 Stat. 514.)

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1436	37:373(c).	Aug. 8, 1953, ch. 393, §4(c), 67 Stat. 503.

The words ''of any person who elects an annuity'' are substituted for the words ''of an active or retired member who has made an election''. The words ''in each individual case'' and ''designated in section 8'' are omitted as surplusage. The words ''and as of the date of election in the case of a retired member'' are omitted as executed. 37:373(c) (1st 23 words of last sentence) is omitted as otherwise covered by the language of the revised section.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–106 made technical correction to directory language of Pub. L. 90–485, §1(6). See 1968 Amendment note below.

1972—Subsec. (a). Pub. L. 92–425 substituted ''subchapter'' for ''chapter''.

1968—Subsec. (b). Pub. L. 90–485, as amended by Pub. L. 104–106, substituted provisions authorizing the Secretary to allow the member to reduce the amount of the annuity, allow the member to withdraw from participation in an annuity program, allow the member to elect the annuity provided in section 1434(a)(1) in place of the annuity provided in section 1434(a)(3) under the specified conditions, and allow the member to elect that a child at least 18, but under 23, not be eligible for the specified annuities, setting forth the times when such reduction, withdrawal, or change of election may take place, and disallowing the refunding or crediting of any amount previously withheld, for provisions authorizing the Secretary to allow the member to withdraw from participation in an annuity program whenever the Secretary considers it necessary because of the member's severe financial hardship, the absence of an eligible beneficiary not of itself to be a basis for such action.

1967—Subsec. (a). Pub. L. 90–207 inserted ''but without regard to any increase in that pay to reflect changes in the Consumer Price Index'' after ''that pay''.

1961—Pub. L. 87–381 designated existing provisions as subsec. (a), added subsec. (b), and inserted ''; withdrawal for severe financial hardship'' in section catchline.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–106, div. A, title XV, §1505(c), Feb. 10, 1996, 110 Stat. 514, provided that the amendment made by that section is effective Aug. 13, 1968, and as if included in Pub. L. 90–485 as originally enacted.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–485 effective Aug. 13, 1968, see section 6 of Pub. L. 90–485, set out as a note under section 1431 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–207 effective Oct. 1, 1967, see section 7 of Pub. L. 90–207, set out as a note under section 203 of Title 37, Pay and Allowances of the Uniformed Services.

§ 1436a. Coverage paid up at 30 years and age 70

Effective October 1, 2008, a reduction under this subchapter in the retired or retainer pay of a person electing an annuity under this subchapter may not be made for any month after the later of—

(1) the month that is the 360th month for which that person's retired or retainer pay is reduced pursuant to such an election; and

(2) the month during which that person attains 70 years of age.

(Added Pub. L. 106–65, div. A, title VI, §655(a), Oct. 5, 1999, 113 Stat. 667.)

§ 1437. Payment of annuity

(a) Except as provided in subsections (b) and (c), each annuity payable under this subchapter accrues as of the first day of the month in which the person upon whose pay the annuity is based dies. Payments shall be made in equal installments and not later than the fifteenth day of each month following that month. However, no annuity accrues for the month in which entitlement thereto ends. The monthly amount of an annuity payable under this subchapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

(b) Each annuity payable to or on behalf of an eligible child (other than a child who is incapable of supporting himself because of a mental defect or physical incapacity existing before his eighteenth birthday) as defined in section 1435(2)(B) of this title who is at least eighteen years of age and pursuing a full-time course of study or training at a recognized educational institution, accrues—

(1) as of the first day of the month in which the member upon whose pay the annuity is based dies, if the eligible child's eighteenth birthday occurs in the same or a preceding month.

(2) as of the first day of the month in which the eighteenth birthday of an eligible child occurs, if the member upon whose pay the annuity is based died in a preceding month.

(3) as of the first day of the month in which a child first becomes or again becomes eligible, if that eligible child's eighteenth birthday and the death of the member upon whose pay the annuity is based both occurred in a preceding month or months.

However, no such annuity is payable or accrues for any month before November 1, 1968.

(c)(1) Upon application of the beneficiary of a member entitled to retired or retainer pay whose retired or retainer pay has been suspended because the member has been determined to be missing, the Secretary concerned may determine for purposes of this subchapter that the member is presumed dead. Any such determination shall be made in accordance with regulations prescribed under section 1444(a) of this title. The Secretary concerned may not make a determination for purposes of this subchapter that a member is presumed dead unless he finds—

(A) that the member has been missing for at least 30 days; and

(B) that the circumstances under which the member is missing would lead a reasonably prudent person to conclude that the member is dead.

(2) Upon a determination under paragraph (1) with respect to a member, an annuity otherwise payable under this subchapter shall be paid as if the member died on the date as of which the retired or retainer pay of the member was suspended.