

“(2) AVAILABILITY OF FUNDS.—Subject to the availability of appropriations for such purpose, amounts in the fund shall be available to the Secretary of Veterans Affairs without fiscal year limitation to make payments to eligible persons in accordance with this section.

“(c) PAYMENTS.—

“(1) IN GENERAL.—The Secretary may make a payment from the compensation fund to an eligible person who, during the one-year period beginning on the date of the enactment of this Act [Feb. 17, 2009], submits to the Secretary a claim for benefits under this section. The application for the claim shall contain such information and evidence as the Secretary may require.

“(2) PAYMENT TO SURVIVING SPOUSE.—If an eligible person who has filed a claim for benefits under this section dies before payment is made under this section, the payment under this section shall be made instead to the surviving spouse, if any, of the eligible person.

“(d) ELIGIBLE PERSONS.—An eligible person is any person who—

“(1) served—

“(A) before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States; or

“(B) in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 (59 Stat. 538 [543])[enacting section 637 of former Title 10, Army and Air Force]; and

“(2) was discharged or released from service described in paragraph (1) under conditions other than dishonorable.

“(e) PAYMENT AMOUNTS.—Each payment under this section shall be—

“(1) in the case of an eligible person who is not a citizen of the United States, in the amount of \$9,000; and

“(2) in the case of an eligible person who is a citizen of the United States, in the amount of \$15,000.

“(f) LIMITATION.—The Secretary may not make more than one payment under this section for each eligible person described in subsection (d).

“(g) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER CERTAIN LAWS.—Amounts paid to a person under this section—

“(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

“(2) shall not be included in income or resources for purposes of determining—

“(A) eligibility of an individual to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits;

“(B) eligibility of an individual to receive benefits under title VIII of the Social Security Act [42 U.S.C. 1001 et seq.], or the amount of such benefits; or

“(C) eligibility of an individual for, or the amount of benefits under, any other Federal or federally assisted program.

“(h) RELEASE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the acceptance by an eligible person or surviving spouse, as applicable, of a payment under this section shall be final, and shall constitute a complete release of any claim against the United States by reason of any service described in subsection (d).

“(2) PAYMENT OF PRIOR ELIGIBILITY STATUS.—Nothing in this section shall prohibit a person from receiving any benefit (including health care, survivor,

or burial benefits) which the person would have been eligible to receive based on laws in effect as of the day before the date of the enactment of this Act [Feb. 17, 2009].

“(i) RECOGNITION OF SERVICE.—The service of a person as described in subsection (d) is hereby recognized as active military service in the Armed Forces for purposes of, and to the extent provided in, this section.

“(j) ADMINISTRATION.—

“(1) The Secretary shall promptly issue application forms and instructions to ensure the prompt and efficient administration of the provisions of this section.

“(2) The Secretary shall administer the provisions of this section in a manner consistent with applicable provisions of title 38, United States Code, and other provisions of law, and shall apply the definitions in section 101 of such title in the administration of such provisions, except to the extent otherwise provided in this section.

“(k) REPORTS.—The Secretary shall include, in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year, detailed information on the operation of the compensation fund, including the number of applicants, the number of eligible persons receiving benefits, the amounts paid out of the compensation fund, and the administration of the compensation fund for the most recent fiscal year for which such data is available.

“(l) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to the compensation fund \$198,000,000, to remain available until expended, to make payments under this section.”

#### REFUND OF ERRONEOUSLY DEDUCTED NSLI PREMIUM TO PHILIPPINE VETERANS ON PROPER APPLICATION

Pub. L. 89-641, § 1, Oct. 11, 1966, 80 Stat. 884, provided for refund of erroneously deducted insurance premiums to Philippine armed forces members in service of the United States Armed Forces, such refund to be made upon receipt of an application within two years after Oct. 11, 1966. In event of death of such member, refund was to be made only to widow or widower, children or parents of such member, in that order, with no refunds to heirs or legal representatives.

#### § 108. Seven-year absence presumption of death

(a) No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Secretary.

(b) If evidence satisfactory to the Secretary is submitted establishing the continued and unexplained absence of any individual from that individual's home and family for seven or more years, and establishing that after diligent search no evidence of that individual's existence after the date of disappearance has been found or received, the death of such individual as of the date of the expiration of such period shall be considered as sufficiently proved.

(c) Except in a suit brought pursuant to section 1984 of this title, the finding of death made by the Secretary shall be final and conclusive.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1112; Pub. L. 99-576, title VII, § 701(7), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 102-83, §§ 4(a)(1), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403-406.)

#### AMENDMENTS

1991—Subsec. (a). Pub. L. 102-83, § 4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans' Administration”.

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

Subsec. (c). Pub. L. 102-83, § 5(c)(1), substituted “1984” for “784”.

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

1986—Subsec. (b). Pub. L. 99-576 substituted “that individual’s” for “his” in two places.

### § 109. Benefits for discharged members of allied forces

(a)(1) In consideration of reciprocal services extended to the United States, the Secretary, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Secretary may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Department facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Secretary may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Secretary, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Department as reimbursement for such services shall be credited to the current appropriation of the Department from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces such person served.

(c)(1) Any person who served during World War I or World War II as a member of any armed force of the Government of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application thereof, be entitled to, payment for

equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

(2) In order to assist the Secretary in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1112; Pub. L. 94-491, Oct. 14, 1976, 90 Stat. 2363; Pub. L. 99-576, title VII, §701(8), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 102-83, §4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

#### AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

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

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

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

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

1986—Subsec. (b). Pub. L. 99-576 substituted “such person” for “he”.

1976—Subsec. (c). Pub. L. 94-491 added subsec. (c).

### § 110. Preservation of disability ratings

A rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Secretary, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud. A disability which has been continuously rated at or above evaluation for twenty or more years for compensation purposes under laws administered by the Secretary shall not thereafter be rated at less than such evaluation, except upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Secretary as the date on which the status commenced for rating purposes.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 87-825, §6, Oct. 15, 1962, 76 Stat. 950; Pub. L. 88-445, §1(a), (b), Aug. 19, 1964, 78 Stat. 464; Pub. L. 91-32, June 23, 1969, 83 Stat. 38; Pub. L. 102-83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

#### AMENDMENTS

1991—Pub. L. 102-83 substituted “Secretary” for “Administrator” and substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in two places.

1969—Pub. L. 91-32 substituted “evaluation” for “percentage” wherever appearing.

1964—Pub. L. 88-445 substituted “Preservation of disability ratings” for “Preservation of total disability