

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-237, title I, §111(b), Dec. 18, 1989, 103 Stat. 2065, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on February 1, 1990."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, and applicable with respect to veterans admitted to a Veterans' Administration hospital or nursing home on or after such date, see section 701(b)(5) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-588 effective Jan. 1, 1979, see section 401 of Pub. L. 95-588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-177 effective Jan. 1, 1974, see section 8 of Pub. L. 93-177, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92-328, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-450, §5(b), Aug. 19, 1964, 78 Stat. 504, provided that: "The amendment made by this section [amending this section] shall apply only with respect to compensation or pension based upon need of regular aid and attendance in the case of veterans admitted for hospitalization on or after the first day of the second calendar month which begins after the date of enactment of this Act [Aug. 19, 1964]."

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87-645 effective first day of first calendar month which begins after Sept. 7, 1962, see section 4 of Pub. L. 87-645, set out as a note under section 1112 of this title.

Pub. L. 87-556, §2(b), July 27, 1962, 76 Stat. 245, provided that: "The amendments made by this Act [amending this section] shall take effect on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act [July 27, 1962]."

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment by Pub. L. 86-211 effective July 1, 1960, see section 10 of Pub. L. 86-211, set out as a note under section 1521 of this title.

Amendment by Pub. L. 86-146 effective first day of first calendar month which begins more than ninety days after Aug. 7, 1959, see section 3 of Pub. L. 86-146, set out as a note under section 5502 of this title.

IMPROVEMENT IN PENSION PROGRAM ADMINISTRATION;
REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 99-166, title I, §108(d), Dec. 3, 1985, 99 Stat. 947, provided that (1) in order to improve timeliness of adjustments made pursuant to subsec. (a) of this section, in amount of pension being paid to a veteran being furnished nursing home care by Veterans' Administration, the Chief Medical Director [now Under Secretary for Health] of the Veterans' Administration was to develop improved procedures for notifying the Chief Benefits Director [now Under Secretary for Benefits] of the Veterans' Administration when a veteran is admitted to a

nursing home, and (2) the Administrator was to submit to Committees on Veterans' Affairs of the Senate and House of Representatives a report, within 90 days, on development and implementation of such procedures.

REGULATIONS; WAIVER FOR HARDSHIP REASONS

Pub. L. 98-543, title IV, §402(b), Oct. 24, 1984, 98 Stat. 2749, directed the Administrator to prescribe regulations under subsec. (b)(1)(C) of this section not later than 60 days after Oct. 24, 1984.

PAYMENT OF LUMP SUM COMPENSATION OR RETIREMENT
PAY TO VETERANS WITHHELD PURSUANT TO PROVISIONS
IN EFFECT ON THE DAY BEFORE THE EFFECTIVE
DATE OF PUB. L. 92-328

Pub. L. 92-328, title I, §106, June 30, 1972, 86 Stat. 395, provided that: "All compensation or retirement pay which is being withheld pursuant to the provisions of subsections (a) and (b)(1) of section 3203 [now 5503], title 38, United States Code, in effect on the day before the effective date of this Act, shall be paid to the veteran, if competent, in a lump sum. If the veteran is incompetent, the withheld amounts shall be paid in a lump sum, or successive lump sums, subject to the \$1,500 and \$500 limitations of subsection (b)(1) of such section 3203 [now 5503] as amended by this Act. If a competent veteran dies before payment is made the withheld amounts shall be paid according to the order of precedence, and subject to the time limitation, of subsection (a)(2) of such section 3203 [now 5503] in effect the day before the effective date of this Act. In the event of the death of an incompetent veteran before payment of all withheld amounts, no part of the remainder shall be payable."

[For effective date of Pub. L. 92-328, see Effective Date of 1972 Amendment notes set out under sections 1114, 1134, and 3713 of this title.]

APPLICABILITY OF 1966 AMENDMENTS TO ANY PENSION
ELIGIBILITY WHICH IS SUBJECT TO VETERANS' PEN-
SION ACT OF 1959

Pub. L. 89-362, §3, Mar. 7, 1966, 80 Stat. 30, provided that: "The amendments made by this Act [amending this section] shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959 [set out as a note under section 1521 of this title]."

APPLICABILITY OF 1962 AMENDMENTS TO PERSONS NOT
ELECTING PENSION UNDER VETERANS' ACT OF 1959

Pub. L. 87-556, §2(a), July 27, 1962, 76 Stat. 245, provided that: "The amendments made by this Act [amending this section] shall not apply to cases in which pension is payable pursuant to sections 9(b) and (c) of the Veterans' Pension Act of 1959 [set out as notes under section 1521 of this title]."

Pub. L. 87-544, §2, July 25, 1962, 76 Stat. 208, provided that: "The amendment made by this Act [amending this section] shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959 [set out as notes under section 1521 of this title]."

§ 5504. Administration of trust funds

All cash balances in the personal funds of patients and the funds due incompetent beneficiaries trust funds administered by the Secretary, and all moneys received which are properly for deposit into these funds, may be deposited, respectively, into deposit fund accounts with the United States Treasury and such balances and deposits shall thereupon be available for disbursement for properly authorized purposes. When any balances have been on deposit with the Treasurer of the United States for more than one year and represent moneys belonging to individuals whose whereabouts are unknown, they shall be transferred and disposed of as directed in section 1322(a) of title 31.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1235, §3204; Pub. L. 97–258, §3(k)(5), Sept. 13, 1982, 96 Stat. 1065; renumbered §5504, Pub. L. 102–40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, §4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3204 of this title as this section.

Pub. L. 102–83 substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

1982—Pub. L. 97–258 substituted “section 1322(a) of title 31” for “the last proviso of subsection (a) of section 725s of title 31”.

[§ 5505. Repealed. Pub. L. 103–446, title XII, § 1201(g)(4)(A), Nov. 2, 1994, 108 Stat. 4687]

Section, added Pub. L. 101–508, title VIII, §8001(a)(1), Nov. 5, 1990, 104 Stat. 1388–341, §3205; renumbered §5505, Pub. L. 102–40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238, related to limitation on compensation payments for certain incompetent veterans.

§ 5506. Definition of “fiduciary”

For purposes of this chapter and chapter 61 of this title, the term “fiduciary” means—

(1) a person who is a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant’s estate) or of a beneficiary (or a beneficiary’s estate); or

(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.

(Added Pub. L. 108–454, title V, §501(a)(1), Dec. 10, 2004, 118 Stat. 3617.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5507. Inquiry, investigations, and qualification of fiduciaries

(a) Any certification of a person for payment of benefits of a beneficiary to that person as such beneficiary’s fiduciary under section 5502 of this title shall be made on the basis of—

(1) an inquiry or investigation by the Secretary of the fitness of that person to serve as fiduciary for that beneficiary, such inquiry or investigation—

(A) to be conducted in advance of such certification;

(B) to the extent practicable, to include a face-to-face interview with such person; and

(C) to the extent practicable, to include a copy of a credit report for such person issued within one year of the date of the proposed appointment;

(2) adequate evidence that certification of that person as fiduciary for that beneficiary is in the interest of such beneficiary (as determined by the Secretary under regulations); and

(3) the furnishing of any bond that may be required by the Secretary.

(b) As part of any inquiry or investigation of any person under subsection (a), the Secretary shall request information concerning whether that person has been convicted of any offense under Federal or State law which resulted in imprisonment for more than one year. If that person has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary finds that the person is an appropriate person to act as fiduciary for the beneficiary concerned under the circumstances.

(c)(1) In the case of a proposed fiduciary described in paragraph (2), the Secretary, in conducting an inquiry or investigation under subsection (a)(1), may carry out such inquiry or investigation on an expedited basis that may include waiver of any specific requirement relating to such inquiry or investigation, including the otherwise applicable provisions of subparagraphs (A), (B), and (C) of such subsection. Any such inquiry or investigation carried out on such an expedited basis shall be carried out under regulations prescribed for purposes of this section.

(2) Paragraph (1) applies with respect to a proposed fiduciary who is—

(A) the parent (natural, adopted, or step-parent) of a beneficiary who is a minor;

(B) the spouse or parent of an incompetent beneficiary;

(C) a person who has been appointed a fiduciary of the beneficiary by a court of competent jurisdiction; or

(D) being appointed to manage an estate where the annual amount of veterans benefits to be managed by the proposed fiduciary does not exceed \$3,600, as adjusted pursuant to section 5312 of this title.

(d) TEMPORARY FIDUCIARIES.—When in the opinion of the Secretary, a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed or a fiduciary is appealing a determination of misuse, the Secretary may appoint one or more temporary fiduciaries for a period not to exceed 120 days. If a final decision has not been made within 120 days, the Secretary may not continue the appointment of the fiduciary without obtaining a court order for appointment of a guardian, conservator, or other fiduciary under the authority provided in section 5502(b) of this title.

(Added Pub. L. 108–454, title V, §502(a), Dec. 10, 2004, 118 Stat. 3618.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5508. Periodic onsite reviews of institutional fiduciaries

In addition to such other reviews of fiduciaries as the Secretary may otherwise conduct, the Secretary shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under laws administered by the Secretary to another individual pursuant to the appointment of