

§103(b), Nov. 18, 1988, 102 Stat. 4107; renumbered §7109, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405, related to advisory medical opinions from one or more independent medical experts who are not employees of the Department.

EFFECTIVE DATE OF REPEAL

Repeal applicable to all claims for which the Secretary of Veterans Affairs provides notice of a decision under section 5104 of this title on or after the later of 540 days after Aug. 23, 2017, or 30 days after the date on which the Secretary submits to Congress a certification of certain capabilities of the Department of Veterans Affairs to carry out the new appeals system established by Pub. L. 115-55 and to address appeals of decisions on legacy claims, with provision for early applicability of the new appeals system to certain claims, see section 2(x) of Pub. L. 115-55, set out as an Effective Date of 2017 Amendment note under section 101 of this title.

[§ 7110. Repealed. Pub. L. 103-271, § 7(b)(2), July 1, 1994, 108 Stat. 743]

Section, added Pub. L. 100-687, div. A, title II, §207(a), Nov. 18, 1988, 102 Stat. 4111, §4010; renumbered §7110, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-83, §4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, authorized hearing before traveling sections of the Board.

§ 7111. Revision of decisions on grounds of clear and unmistakable error

(a) A decision by the Board is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

(b) For the purposes of authorizing benefits, a rating or other adjudicative decision of the Board that constitutes a reversal or revision of a prior decision of the Board on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Board on the Board's own motion or upon request of the claimant.

(d) A request for revision of a decision of the Board based on clear and unmistakable error may be made at any time after that decision is made.

(e) Such a request shall be submitted directly to the Board and shall be decided by the Board on the merits.

(f) A claim filed with the Secretary that requests reversal or revision of a previous Board decision due to clear and unmistakable error shall be considered to be a request to the Board under this section, and the Secretary shall promptly transmit any such request to the Board for its consideration under this section.

(Added Pub. L. 105-111, §1(b)(1), Nov. 21, 1997, 111 Stat. 2271; amended Pub. L. 115-55, §2(v), Aug. 23, 2017, 131 Stat. 1113.)

APPLICABILITY OF AMENDMENT

Amendment of section by section 2(v) of Pub. L. 115-55 applicable to all claims for which the Secretary of Veterans Affairs provides notice of a decision under section 5104 of this title on or after the later of 540 days after Aug. 23, 2017, or 30 days after the date on which the Secretary

submits to Congress a certification of certain capabilities of the Department of Veterans Affairs to carry out the new appeals system established by Pub. L. 115-55 and to address appeals of decisions on legacy claims, with provision for early applicability of the new appeals system to certain claims. See 2017 Amendment note below.

AMENDMENTS

2017—Subsec. (e). Pub. L. 115-55 struck out “, without referral to any adjudicative or hearing official acting on behalf of the Secretary” after “merits”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-55 applicable to all claims for which the Secretary of Veterans Affairs provides notice of a decision under section 5104 of this title on or after the later of 540 days after Aug. 23, 2017, or 30 days after the date on which the Secretary submits to Congress a certification of certain capabilities of the Department of Veterans Affairs to carry out the new appeals system established by Pub. L. 115-55 and to address appeals of decisions on legacy claims, with provision for early applicability of the new appeals system to certain claims, see section 2(x) of Pub. L. 115-55, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section applicable to any determination made before, on, or after Nov. 21, 1997, see section 1(c)(1) of Pub. L. 105-111, set out as a note under section 5109A of this title.

§ 7112. Expedited treatment of remanded claims

The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the Board of any claim that is remanded to the Secretary by the Court of Appeals for Veterans Claims.

(Added Pub. L. 108-183, title VII, §707(b)(1), Dec. 16, 2003, 117 Stat. 2673.)

§ 7113. Evidentiary record before the Board of Veterans' Appeals

(a) CASES WITH NO REQUEST FOR A HEARING OR ADDITIONAL EVIDENCE.—For cases in which a hearing before the Board of Veterans' Appeals is not requested in the notice of disagreement and no request was made to submit evidence, the evidentiary record before the Board shall be limited to the evidence of record at the time of the decision of the agency of original jurisdiction on appeal.

(b) CASES WITH A REQUEST FOR A HEARING.—(1) Except as provided in paragraph (2), for cases in which a hearing is requested in the notice of disagreement, the evidentiary record before the Board shall be limited to the evidence of record at the time of the decision of the agency of original jurisdiction on appeal.

(2) The evidentiary record before the Board for cases described in paragraph (1) shall include each of the following, which the Board shall consider in the first instance:

(A) Evidence submitted by the appellant and his or her representative, if any, at the Board hearing.

(B) Evidence submitted by the appellant and his or her representative, if any, within 90 days following the Board hearing.

(c) CASES WITH NO REQUEST FOR A HEARING AND WITH A REQUEST FOR ADDITIONAL EVI-

DENCE.—(1) Except as provided in paragraph (2), for cases in which a hearing is not requested in the notice of disagreement but an opportunity to submit evidence is requested, the evidentiary record before the Board shall be limited to the evidence considered by the agency of original jurisdiction in the decision on appeal.

(2) The evidentiary record before the Board for cases described in paragraph (1) shall include each of the following, which the Board shall consider in the first instance:

(A) Evidence submitted by the appellant and his or her representative, if any, with the notice of disagreement.

(B) Evidence submitted by the appellant and his or her representative, if any, within 90 days following receipt of the notice of disagreement.

(Added Pub. L. 115-55, §2(w)(1), Aug. 23, 2017, 131 Stat. 1114.)

EFFECTIVE DATE

Section applicable to all claims for which the Secretary of Veterans Affairs provides notice of a decision under section 5104 of this title on or after the later of 540 days after Aug. 23, 2017, or 30 days after the date on which the Secretary submits to Congress a certification of certain capabilities of the Department of Veterans Affairs to carry out the new appeals system established by Pub. L. 115-55 and to address appeals of decisions on legacy claims, with provision for early applicability of the new appeals system to certain claims, see section 2(x) of Pub. L. 115-55, set out as an Effective Date of 2017 Amendment note under section 101 of this title.

CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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AMENDMENTS

2013—Pub. L. 112-260, title III, §302(a)(2), Jan. 10, 2013, 126 Stat. 2425, which directed amendment of the table of sections for chapter 72 by adding item 7255 and striking out former item 7255 “Offices”, without specifying the Code title to be amended, was executed to the table of sections for this chapter, to reflect the probable intent of Congress.

2008—Pub. L. 110-389, title VI, §604(b), Oct. 10, 2008, 122 Stat. 4179, added item 7288.

2001—Pub. L. 107-103, title VI, §§604(c)(2), 605(b), Dec. 27, 2001, 115 Stat. 1000, substituted “Practice and registration fees” for “Practice fee” in item 7285 and added item 7287.

1999—Pub. L. 106-117, title X, §§1021(b), 1024(b), Nov. 30, 1999, 113 Stat. 1592, 1594, added items 7257 and 7299.

1998—Pub. L. 105-368, title V, §512(a)(3), (4)(A), Nov. 11, 1998, 112 Stat. 3341, substituted “APPEALS FOR VETERANS CLAIMS” for “VETERANS APPEALS” in chapter heading, struck out “of Veterans Appeals” after “Court” in item 7286, substituted “Court decision” for “United States Court of Veterans Appeals decision” in item 7291, and struck out “Court of Veterans Appeals” before “Retirement Fund” in item 7298.

1991—Pub. L. 102-82, §2(b), Aug. 6, 1991, 105 Stat. 375, added item 7286.

Pub. L. 102-40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 4051 to 4098 as 7251 to 7298, respectively.

1989—Pub. L. 101-94, title I, §101(b), Aug. 16, 1989, 103 Stat. 625, added subchapter V heading and items 4096 to 4098.

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

§ 7251. Status

There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Appeals for Veterans Claims.

(Added Pub. L. 100-687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4113, §4051; renumbered §7251, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105-368, title V, §511(b), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

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

1991—Pub. L. 102-40 renumbered section 4051 of this title as this section.

CHANGE OF NAME

Pub. L. 105-368, title V, §511(a), Nov. 11, 1998, 112 Stat. 3341, provided that: “The United States Court of Veterans Appeals is hereby renamed as, and shall hereafter be known and designated as, the United States Court of Appeals for Veterans Claims.”

Pub. L. 105-368, title V, §512(c), Nov. 11, 1998, 112 Stat. 3342, provided that: “Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.”

EFFECTIVE DATE OF 2001 AMENDMENT; CONSTRUCTION

Pub. L. 107-103, title VI, §603(c), (d), Dec. 27, 2001, 115 Stat. 999, provided that:

“(c) CONSTRUCTION.—The repeal in subsection (a) [repealing section 402 of Pub. L. 100-687, formerly set out as a note below] may not be construed to confer upon