

ties of the Veterans' Administration, other than hospitals under the jurisdiction of the uniformed services, shall be vested in the Administrator of Veterans' Affairs.

SEC. 5. All duties, powers, and functions incident to the hospitalization of members or former members of the uniformed services placed on the temporary disability retired list or permanently retired for physical disability or receiving disability retirement pay who require hospitalization for chronic diseases shall be vested in the Administrator of Veterans' Affairs: *Provided*, that all the duties, powers, and functions incident to hospitalization for such members or former members who elect to receive hospitalization in uniformed services facilities shall, subject to the availability of space and facilities and the capabilities of the medical and dental staff, be vested in the Secretary concerned: *And provided further*, that for the purpose of this order, the term "chronic disease" shall be construed to include arthritis, malignancy, psychiatric or neuropsychiatric disorder, neurological disabilities, poliomyelitis with disability residuals and degenerative diseases of the nervous system, severe injuries to the nervous system including quadriplegics, hemiplegics, and paraplegics, tuberculosis, blindness and deafness requiring definitive rehabilitation, major amputees, and such other diseases as may be so defined jointly by the Secretary of Defense, the Administrator of Veterans' Affairs, and the Federal Security Administrator and so described in appropriate regulations of the respective departments and agencies concerned. Executive Order No. 9703 of March 12, 1946, prescribing regulations relating to the medical care of certain personnel of the Coast Guard, National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey), Public Health Service, and the former Lighthouse Service, is hereby amended to the extent necessary to conform to the provisions of this section.

SEC. 6. Except as provided in section 5 hereof with respect to hospitalization for chronic diseases, nothing in this order shall be construed to affect the duties, powers, and functions of the Public Health Service with respect to hospitalization and medical examination of members and former members of the Coast Guard and the National Oceanic and Atmospheric Administration (formerly Coast and Geodetic Survey) under the Public Health Service Act, approved July 1, 1944 (58 Stat. 682), as amended [section 201 et seq. of Title 42, The Public Health and Welfare], and the regulations prescribed by the said Executive Order No. 9703 of March 12, 1946.

SEC. 7. Nothing in this order shall be construed to affect the duties, powers, and functions vested in the Administrator of Veterans' Affairs pursuant to the provisions of the act of May 24, 1928, entitled "An Act making eligible for retirement, under certain conditions, officers and former officers of the Army, Navy, and Marine Corps of the United States, other than officers of the Regular Army, Navy, or Marine Corps, who incurred physical disability in line of duty while in the service of the United States during the World War" (45 Stat. 735, as amended) [section 581 of former Title 38], or by or pursuant to the act of September 26, 1941, entitled "An Act to provide retirement pay and hospital benefits to certain Reserve officers, Army of the United States, disabled while on active duty" (55 Stat. 733) [former section 456a of this title].

§ 1216a. Determinations of disability: requirements and limitations on determinations

(a) UTILIZATION OF VA SCHEDULE FOR RATING DISABILITIES IN DETERMINATIONS OF DISABILITY.—(1) In making a determination of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned—

(A) shall, to the extent feasible, utilize the schedule for rating disabilities in use by the Department of Veterans Affairs, including any applicable interpretation of the schedule by

the United States Court of Appeals for Veterans Claims; and

(B) except as provided in paragraph (2), may not deviate from the schedule or any such interpretation of the schedule.

(2) In making a determination described in paragraph (1), the Secretary concerned may utilize in lieu of the schedule described in that paragraph such criteria as the Secretary of Defense and the Secretary of Veterans Affairs may jointly prescribe for purposes of this subsection if the utilization of such criteria will result in a determination of a greater percentage of disability than would be otherwise determined through the utilization of the schedule.

(b) CONSIDERATION OF ALL MEDICAL CONDITIONS.—In making a determination of the rating of disability of a member of the armed forces for purposes of this chapter, the Secretary concerned shall take into account all medical conditions, whether individually or collectively, that render the member unfit to perform the duties of the member's office, grade, rank, or rating.

(Added Pub. L. 110-181, div. A, title XVI, §1642(a), Jan. 28, 2008, 122 Stat. 465.)

§ 1217. Academy cadets and midshipmen: applicability of chapter

(a) This chapter applies to cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy and midshipmen of the United States Naval Academy, but only with respect to physical disabilities incurred after October 28, 2004.

(b) Monthly cadet pay and monthly midshipman pay under section 203(c) of title 37 shall be considered to be basic pay for purposes of this chapter and the computation of retired pay and severance and separation pay to which entitlement is established under this chapter.

(Aug. 10, 1956, ch. 1041, 70A Stat. 100; Pub. L. 85-861, §33(a)(7), Sept. 2, 1958, 72 Stat. 1564; Pub. L. 108-375, div. A, title V, §555(b)(1), Oct. 28, 2004, 118 Stat. 1914; Pub. L. 109-364, div. A, title X, §1071(a)(6), Oct. 17, 2006, 120 Stat. 2398.)

HISTORICAL AND REVISION NOTES 1956 ACT

Revised section	Source (U.S. Code)	Source (Statutes at Large)
1217	[No source].	[No source].

The revised section is inserted to reflect the limited definition of the word "member" in section 102(b) of the Career Compensation Act of 1949 (37 U.S.C. 231(b)).

1958 ACT

Aviation cadets were omitted from chapter 61 because Title IV of the Career Compensation Act of 1949 (formerly 37 U.S.C. 271 et seq.), which was the source law for this chapter, covered only members entitled to basic pay and it was believed that aviation cadets were not so entitled. However, the Comptroller General has ruled that aviation cadets are entitled to basic pay (30 Comp. Gen. 431). Accordingly, aviation cadets were covered by Title IV and should not be excepted from chapter 61.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-364 substituted "October 28, 2004" for "the date of the enactment of the Ronald