

Pub. L. 109-461, set out as a Coordination of Provisions With Pub. L. 109-444 note under section 101 of this title.

Subsec. (b)(3)(B). Pub. L. 109-461, § 301(c)(2)(A), substituted "subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title." for "section 3501(a)(1) of this title under subparagraph (A)(i), (A)(ii), (B), or (D) of such section by reason of either (i) the service-connected death or (ii) service-connected total disability permanent in nature of the veteran from whom such eligibility is derived."

Pub. L. 109-444, § 3(c)(2)(A), which substituted "subparagraphs (A), (B), (D), and (E) of section 3501(a)(1) of this title." for "section 3501(a)(1) of this title under subparagraph (A)(i), (A)(ii), (B), or (D) of such section by reason of either (i) the service-connected death or (ii) service-connected total disability permanent in nature of the veteran from whom such eligibility is derived.", was terminated by Pub. L. 109-461, § 1006(b). See Amendment notes above.

Subsec. (b)(3)(C). Pub. L. 109-461, § 301(c)(2)(B), substituted "the death of the person from whom such eligibility is derived" for "such veteran's death" and "the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service) of the person from whom such eligibility is derived" for "such veteran's service-connected total disability permanent in nature".

Pub. L. 109-444, § 3(c)(2)(B), which substituted "the death of the person from whom such eligibility is derived" for "such veteran's death" and "the service-connected total disability permanent in nature (or, in the case of a person made eligible under section 3501(a)(1)(E), the total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service) of the person from whom such eligibility is derived" for "such veteran's service-connected total disability permanent in nature", was terminated by Pub. L. 109-461, § 1006(b). See Amendment notes above.

2000—Subsec. (a). Pub. L. 106-419, § 113(a)(2), substituted "subsections (b) and (c)" for "subsection (b) of this section".

Subsecs. (b), (c). Pub. L. 106-419, § 113(a)(1), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

1991—Pub. L. 102-40 renumbered section 3013 of this title as this section.

Subsec. (a). Pub. L. 102-16 inserted "or chapter 106 of title 10" after "of this title".

Subsec. (b). Pub. L. 102-83 substituted "3680(g)" for "1780(g)".

1989—Pub. L. 101-237 designated existing provisions as subsec. (a), substituted "Except as provided in subsection (b) of this section, effective" for "Effective", and added subsec. (b).

1988—Pub. L. 100-322 inserted reference to chapter 32.

1986—Pub. L. 99-576 inserted reference to chapter 30.

1966—Pub. L. 89-358 substituted "34" for "33".

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 301(c)(2) of Pub. L. 109-461 applicable with respect to a payment of educational assistance for a course of education pursued after Dec. 22, 2006, see section 301(d) of Pub. L. 109-461, set out as a note under section 3501 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title I, § 113(b), Nov. 1, 2000, 114 Stat. 1832, provided that: "The amendments made by subsection (a) [amending this section] shall apply to applications first made under section 3513 of title 38, United States Code, that—

"(1) are received on or after the date of the enactment of this Act [Nov. 1, 2000]; or

"(2) on the date of the enactment of this Act, are pending (A) with the Secretary of Veterans Affairs, or (B) exhaustion of available administrative and judicial remedies."

## SUBCHAPTER III—PAYMENT OF BENEFITS

### § 5120. Payment of benefits; delivery

(a) Monetary benefits under laws administered by the Secretary shall be paid by checks drawn, pursuant to certification by the Secretary, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Secretary may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at the payee's last known address and, if the payee has moved and filed a regular change of address notice with the United States Postal Service, shall be forwarded to the payee. The envelope or cover of each such check shall bear on the face thereof the following notice: "POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known."

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if such person has died or in the case of a surviving spouse, if the postal employee believes that the surviving spouse has remarried (unless the mail is addressed to the surviving spouse in the name the surviving spouse has acquired by the remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity compensation, and insurance, only insofar as the Secretary deems it necessary to protect the United States against loss.

(c) Whenever mail is not delivered because of the prohibition of subsection (b), such mail shall be returned forthwith by the postmaster with a statement of the reason for so doing, and if because of death or remarriage, the date thereof, if known. Checks returned under this subsection because of death or remarriage shall be canceled.

(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Secretary certifies such benefits for payment, monetary benefits under laws administered by the Secretary may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Secretary to be in the best interest of such payees and the management of monetary benefits programs by the Department.

(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Secretary shall, to the maximum extent practicable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Sat-

urday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.

(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Secretary shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

(2) The Secretary shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Secretary in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1227, §3020; Pub. L. 95-117, title IV, §402(a), (b)(1), Oct. 3, 1977, 91 Stat. 1065, 1066; Pub. L. 97-295, §4(73), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 99-570, title XI, §11007(a)(2), Oct. 27, 1986, 100 Stat. 3207-170; Pub. L. 99-576, title VII, §701(65), Oct. 28, 1986, 100 Stat. 3296; renumbered §5120, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-83, §4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

#### AMENDMENTS

1991—Pub. L. 102-40 renumbered section 3020 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

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. (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" before period at end.

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

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

Subsec. (f)(1). Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

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

Pub. L. 102-83, §4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

1986—Subsec. (a). Pub. L. 99-576, §701(65)(A), substituted "the payee's" for "his", and "the payee" for "he" and "him" in third sentence.

Subsec. (b). Pub. L. 99-576, §701(65)(B), substituted "such person" for "he", "surviving spouse" for "widow", "the surviving spouse" for "she" in two places, "to the surviving spouse" for "to her", and "by the" for "by her" in first sentence.

Subsec. (f). Pub. L. 99-570 added subsec. (f).

1982—Subsec. (a). Pub. L. 97-295 substituted "United States Postal Service" for "Post Office Department".

1977—Pub. L. 95-117, §402(b)(1), struck out "by check" after "benefits" in section catchline.

Subsecs. (d), (e). Pub. L. 95-117, §402(a), added subsecs. (d) and (e).

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-570, title XI, §11007(b)(2), Oct. 27, 1986, 100 Stat. 3207-170, provided that: "The amendment made by

subsection (a)(2) [amending this section] shall take effect with respect to payments made on or after October 1, 1986."

#### EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-117, title IV, §402(c), Oct. 3, 1977, 91 Stat. 1066, provided that: "The amendments made by this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]."

### § 5121. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Secretary to which an individual was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death (hereinafter in this section and section 5122 of this title referred to as "accrued benefits") and due and unpaid, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Secretary.

(2) Upon the death of a veteran, to the living person first listed below:

(A) The veteran's spouse.

(B) The veteran's children (in equal shares).

(C) The veteran's dependent parents (in equal shares).

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran.

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension.

(5) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents.

(6) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1228, §3021; Pub. L. 92-328, title I, §105(b), June 30, 1972, 86 Stat. 395; Pub. L. 97-258, §3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 98-160, title VII, §703(1), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99-576, title VII, §701(66), Oct. 28, 1986, 100 Stat. 3296; renumbered §5121 and amended Pub. L. 102-40, title IV,