

## APPLICATION FOR BENEFITS

Pub. L. 108-183, title I, §101(e), Dec. 16, 2003, 117 Stat. 2653, provided that: "In the case of an individual who but for having remarried would be eligible for benefits under title 38, United States Code, by reason of the amendment made by subsection (a) [amending this section] and whose remarriage was before the date of the enactment of this Act [Dec. 16, 2003] and after the individual had attained age 57, the individual shall be eligible for such benefits by reason of such amendment only if the individual submits an application for such benefits to the Secretary of Veterans Affairs not later than the end of the one-year period beginning on the date of the enactment of this Act."

Pub. L. 107-330, title I, §101(b), Dec. 6, 2002, 116 Stat. 2821, as amended by Pub. L. 108-183, title I, §101(f), Dec. 16, 2003, 117 Stat. 2653, provided that: "In the case of an individual who but for having remarried would be eligible for medical care under section 1781 of title 38, United States Code, and whose remarriage was before the date of the enactment of this Act [Dec. 6, 2002] and after the individual had attained age 55, the individual shall be eligible for such medical care by reason of the amendments made by subsection (a) [amending this section] only if an application for such medical care is received by the Secretary of Veterans Affairs before the end of the one-year period beginning on the date of the enactment of the Veterans Benefits Act of 2003 [Dec. 16, 2003]."

## LIMITATION ON PAYMENTS

Pub. L. 106-117, title V, §502(d), Nov. 30, 1999, 113 Stat. 1574, provided that: "No payment may be made to a person by reason of paragraphs (2) and (3) of section 103(d) of title 38, United States Code, as added by subsection (a), for any period before the effective date specified in subsection (c) [set out as an Effective Date of 1999 Amendment note above]."

## APPLICABILITY OF AMENDMENTS

Pub. L. 102-568, title I, §103, Oct. 29, 1992, 106 Stat. 4322, provided that:

"(a) EXCEPTION.—The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) [Pub. L. 101-508, 104 Stat. 1388-343, amending this section] shall not apply to any case in which a legal proceeding to terminate an existing marital relationship was commenced before November 1, 1990, by an individual described in subsection (b) if that proceeding directly resulted in the termination of such marriage.

"(b) COVERED INDIVIDUALS.—An individual referred to in subsection (a) is an individual who, but for the marital relationship referred to in subsection (a), would be considered to be the surviving spouse of a veteran."

Pub. L. 102-86, title V, §502, Aug. 14, 1991, 105 Stat. 424, provided that: "The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) [amending this section] shall not apply with respect to any individual who on October 31, 1990, was a surviving spouse or child within the meaning of title 38, United States Code, unless after that date that individual (1) marries, or (2) in the case of a surviving spouse, begins to live with another person while holding himself or herself out openly to the public as that person's spouse."

## REINSTATEMENT OF BENEFITS SUBSEQUENT TO TERMINATION OF RELATIONSHIP OR CONDUCT RESTRICTING PAYMENT OF BENEFITS; EFFECTIVE DATE OF AWARD

Pub. L. 91-376, §5, Aug. 12, 1970, 84 Stat. 789, effective January 1, 1971, provided that:

"(a) If a widow terminates a relationship or conduct which resulted in imposition of a prior restriction on payment of benefits, in the nature of inference or presumption of remarriage, or relating to open and notorious adulterous cohabitation or similar conduct, she shall not be denied any benefits by the Veterans' Administration, other than insurance, solely because of such prior relationship or conduct.

"(b) The effective date of an award of benefits resulting from enactment of subsection (a) of this section shall not be earlier than the date of receipt of application therefor, filed after termination of the particular relationship or conduct and after December 31, 1970."

## § 104. Approval of educational institutions

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of twenty-three years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Secretary may approve or disapprove such educational institutions.

(b) The Secretary may not approve an educational institution under this section unless such institution has agreed to report to the Secretary the termination of attendance of any child. If any educational institution fails to report any such termination promptly, the approval of the Secretary shall be withdrawn.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 91-24, §1(c), June 11, 1969, 83 Stat. 33; Pub. L. 99-576, title VII, §701(3), Oct. 28, 1986, 100 Stat. 3290; Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

## Editorial Notes

## AMENDMENTS

1991—Pub. L. 102-83 substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (b). Pub. L. 99-576 substituted "report to the Administrator" for "report to him".

1969—Subsec. (a). Pub. L. 91-24 substituted "the age of twenty-three years" for "the age of twenty-one years".

## § 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, air, or space service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, air, or space service, whether on active duty or on authorized leave, unless such injury or disease was a result of the person's own willful misconduct or abuse of alcohol or drugs. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring the person to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service or by absenting himself or herself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

(c) For the purposes of any provision relating to the extension of a delimiting period under