

tled thereto prior to receipt of notice that such person is under a legal disability adjudged by a court, and which permitted the Administrator to determine the person legally vested with the care of the claimant or his estate where no guardian, curator or conservator has been appointed.

Subsec. (c). Pub. L. 93-295, § 301(b), substituted "fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration" for "guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate", and "such benefits" for "such estates".

Subsec. (e). Pub. L. 93-295, § 301(c), substituted "hands of a fiduciary appointed by a State court or the Veterans' Administration derived from" for "hands of a guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, derived from", and "such fiduciary" for "such guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate".

Subsecs. (f), (g). Pub. L. 93-295, § 301(d), repealed subsec. (f) which permitted the Administrator, in the case of any incompetent veteran having no guardian, to pay compensation, pension or retirement pay to the wife of such veteran for the use of the veteran and his dependents, and subsec. (g) which permitted payment of death benefits to a widow for herself and child or children, if any, notwithstanding that she may be a minor.

1972—Subsec. (d). Pub. L. 92-328 inserted provisions relating to filing for death benefit payments.

1959—Subsec. (d). Pub. L. 86-146 provided for payment, upon death of an incompetent veteran, of gratuitous benefits deposited in the personal funds of patients trust fund to surviving spouse, children or parents, for deposit of balance to credit of applicable current appropriation and for reimbursement of expenses of last sickness and burial.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-454 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 a note under section 5312 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-295 effective first day of second calendar month following May 31, 1974, see section 401 of Pub. L. 93-295, set out as a note under section 1114 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 1959 AMENDMENT

Pub. L. 86-146, § 3, Aug. 7, 1959, 73 Stat. 298, provided that: "The amendments made by this Act [amending this section and section 3203 [now 5503] of this title] shall take effect as of the first day of the first calendar month which begins more than ninety days after the date of enactment of this Act [Aug. 7, 1959]."

§ 5503. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Department, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

(B) Except as provided in subparagraph (D) of this paragraph, where any veteran having nei-

ther spouse nor child is being furnished nursing home care by the Department, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care. Any amount in excess of \$90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.

(C) No pension in excess of \$90 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Department if such veteran is readmitted within six months of a period of care in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph.

(D) In the case of a veteran being furnished nursing home care by the Department and with respect to whom subparagraph (B) of this paragraph requires a reduction in pension, such reduction shall not be made for a period of up to three additional calendar months after the last day of the third month referred to in such subparagraph if the Secretary determines that the primary purpose for the furnishing of such care during such additional period is for the Department to provide such veteran with a prescribed program of rehabilitation services, under chapter 17 of this title, designed to restore such veteran's ability to function within such veteran's family and community. If the Secretary determines that it is necessary, after such period, for the veteran to continue such program of rehabilitation services in order to achieve the purposes of such program and that the primary purpose of furnishing nursing home care to the veteran continues to be the provision of such program to the veteran, the reduction in pension required by subparagraph (B) of this paragraph shall not be made for the number of calendar months that the Secretary determines is necessary for the veteran to achieve the purposes of such program.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a spouse but whose pension is payable under section 1521(b) of this title. In such a case, the Secretary may apportion and pay to the spouse, upon an affirmative showing of hardship, all or any part of the amounts in excess of the amount payable to the veteran while being furnished such care which would be payable to the veteran if pension were payable under section 1521(c) of this title.

(b) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which the veteran is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(c) Where any veteran in receipt of an aid and attendance allowance described in subsection (r)

or (t) of section 1114 of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of the veteran's admission for such hospitalization for so long as such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Department, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (l) or (m) of section 1114 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

(d)(1) For the purposes of this subsection—

(A) the term “Medicaid plan” means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

(B) the term “nursing facility” means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r), other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 1741(a) of this title.

(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of \$90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

(5)(A) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.

(B) The provisions of this subsection shall apply with respect to a child entitled to pension under section 1542 of this title in the same manner as they apply to a veteran having neither spouse nor child.

(6) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(7) This subsection expires on October 30, 2028.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1234, §3203; Pub. L. 86-146, §1(b), 2, Aug. 7, 1959, 73 Stat. 298; Pub. L. 86-211, §6, Aug. 29, 1959, 73 Stat. 435; Pub. L. 87-544, §1, July 25, 1962, 76 Stat. 208; Pub. L. 87-556, §1, July 27, 1962, 76 Stat. 245; Pub. L. 87-645, §2(b), Sept. 7, 1962, 76 Stat. 441; Pub. L. 88-450, §5(a), Aug. 19, 1964, 78 Stat. 504; Pub. L. 89-362, §§1, 2, Mar. 7, 1966, 80 Stat. 30; Pub. L. 91-24, §10, June 11, 1969, 83 Stat. 34; Pub. L. 92-328, title I, §104, June 30, 1972, 86 Stat. 394; Pub. L. 93-177, §5, Dec. 6, 1973, 87 Stat. 696; Pub. L. 95-588, title III, §307, Nov. 4, 1978, 92 Stat. 2510; Pub. L. 96-385, title V, §503(b), Oct. 7, 1980, 94 Stat. 1534; Pub. L. 97-66, title VI, §602, Oct. 17, 1981, 95 Stat. 1034; Pub. L. 98-160, title VII, §703(4), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 98-543, title IV, §402(a), Oct. 24, 1984, 98 Stat. 2749; Pub. L. 99-576, title VII, §701(77), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 101-237, title I, §111(a), Dec. 18, 1989, 103 Stat. 2064; Pub. L. 101-508, title VIII, §8003(a), Nov. 5, 1990, 104 Stat. 1388-342; renumbered §5503 and amended Pub. L. 102-40, title III, §304(a), title IV, §402(b)(1), May 7, 1991, 105 Stat. 209, 238; Pub. L. 102-83, §§4(a)(2)(A)(x), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403-406; Pub. L. 102-86, title I, §101(a), Aug. 14, 1991, 105 Stat. 414; Pub. L. 102-568, title VI, §601(a)-(c), Oct. 29, 1992, 106 Stat. 4341; Pub. L. 103-66, title XII, §12005, Aug. 10, 1993, 107 Stat. 414; Pub. L. 105-33, title VIII, §8015, Aug. 5, 1997, 111 Stat. 664; Pub. L. 105-368, title IX, §904(a), Nov. 11, 1998, 112 Stat. 3361; Pub. L. 106-419, title III, §304, title IV, §402(e), Nov. 1, 2000, 114 Stat. 1853, 1863; Pub. L. 107-103, title II, §204(a), title V, §504, Dec. 27, 2001, 115 Stat. 990, 995; Pub. L. 111-275, title VI, §§601(b)(2), 606, 607, Oct. 13, 2010, 124 Stat. 2884, 2886; Pub. L. 112-56, title II, §262, Nov. 21, 2011, 125 Stat. 732; Pub. L. 112-260, title II, §203, Jan. 10, 2013, 126 Stat. 2424; Pub. L. 113-146, title VII, §703, Aug. 7, 2014, 128 Stat. 1797; Pub. L. 115-46, title IV, §401, Aug. 12, 2017, 131 Stat. 969; Pub. L. 115-182, title V, §509, June 6, 2018, 132 Stat. 1480; Pub. L. 116-315, title II, §2013, Jan. 5, 2021, 134 Stat. 4980.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2021—Subsec. (d)(7). Pub. L. 116-315 substituted “October 30, 2028” for “September 30, 2028”.

2018—Subsec. (d)(7). Pub. L. 115-182 substituted “September 30, 2028” for “September 30, 2027”.

2017—Subsec. (d)(7). Pub. L. 115-46 substituted “September 30, 2027” for “September 30, 2024”.

2014—Subsec. (d)(7). Pub. L. 113-146 substituted “September 30, 2024” for “November 30, 2016”.

2013—Subsec. (d)(7). Pub. L. 112-260 substituted “November 30, 2016” for “September 30, 2016”.

2011—Subsec. (d)(7). Pub. L. 112-56 substituted “September 30, 2016” for “May 31, 2015”.

2010—Subsec. (c). Pub. L. 111-275, §601(b)(2), substituted “in subsection (r) or (t) of section 1114” for “in section 1114(r)”.

Subsec. (d)(5). Pub. L. 111-275, § 606, designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(7). Pub. L. 111-275, § 607, substituted "May 31, 2015" for "September 30, 2011".

2001—Subsecs. (b), (c). Pub. L. 107-103, § 204(a), redesignated subsecs. (d) and (e) as (b) and (c), respectively, and struck out former subsecs. (b) and (c), which read as follows:

"(b)(1)(A) In any case in which a veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Secretary in accordance with regulations as being incompetent, and the veteran's estate (excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home), from any source equals or exceeds the amount equal to five times the section 1114(j) rate, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to one-half that amount.

"(B) The amount which would be payable but for this paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veterans' death before payment of such lump sum no part thereof shall be payable.

"(C) The Secretary may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Secretary determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Secretary shall prescribe.

"(D) For purposes of this paragraph, the term 'section 1114(j) rate' means the monthly rate of compensation in effect under section 1114(j) of this title for a veteran with a service-connected disability rated as total.

"(2) Where any benefit is discontinued by reason of paragraph (1) of this subsection the Secretary may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (1) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of the veteran's pension, compensation, or retirement pay as equals the amount charged to the veteran for the veteran's current care and maintenance in the institution in which treatment or care is furnished the veteran, but not more than the amount determined by the Secretary to be the proper charge as fixed by any applicable statute or valid administrative regulation.

"(3) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Secretary, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

"(c) Any veteran subject to the provisions of subsection (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a spouse, child, or dependent parent."

Subsec. (d). Pub. L. 107-103, §§ 204(a)(2), 504, redesignated subsec. (f) as (d) and substituted "September 30, 2011" for "September 30, 2008" in par. (7). Former subsec. (d) redesignated (b).

Subsecs. (e), (f). Pub. L. 107-103, § 204(a)(2), redesignated subsecs. (e) and (f) as (c) and (d), respectively.

2000—Subsec. (b)(1)(A). Pub. L. 106-419, § 304(1), substituted "the amount equal to five times the section 1114(j) rate" for "\$1,500" and "one-half that amount" for "\$500".

Subsec. (b)(1)(D). Pub. L. 106-419, § 304(2), added subpar. (D).

Subsec. (f)(7). Pub. L. 106-419, § 402(e), substituted "September 30, 2008" for "September 30, 2002".

1998—Subsec. (a)(1)(B). Pub. L. 105-368 substituted "Any" for "Effective through September 30, 1997, any" in second sentence.

1997—Subsec. (f)(7). Pub. L. 105-33 substituted "September 30, 2002" for "September 30, 1998".

1993—Subsec. (f)(7). Pub. L. 103-66 substituted "1998" for "1997".

1992—Subsec. (a)(1)(B). Pub. L. 102-568, § 601(c), inserted at end "Effective through September 30, 1997, any amount in excess of \$90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility."

Subsec. (f)(5), (6). Pub. L. 102-568, § 601(a), added par. (5) and redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (f)(7). Pub. L. 102-568, § 601(b), substituted "1997" for "1992".

Pub. L. 102-568, § 601(a)(1), redesignated par. (6) as (7). 1991—Pub. L. 102-40, § 402(b)(1), renumbered section 3203 of this title as this section.

Subsec. (a)(1)(A), (B). Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (a)(1)(C). Pub. L. 102-86 substituted "\$90" for "\$60".

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

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

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in two places.

Subsec. (a)(2). Pub. L. 102-83, § 5(c)(1), substituted "1521(b)" and "1521(c)" for "521(b)" and "521(c)", respectively.

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

Subsec. (b)(1)(A). Pub. L. 102-83, § 4(a)(2)(A)(x), substituted "Secretary" for "Veterans' Administration".

Subsec. (b)(1)(C), (2), (3). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (e). Pub. L. 102-83, § 5(c)(1), substituted "1114(r)" and "1114" for "314(r)" and "314", respectively.

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

Subsec. (f)(1)(B). Pub. L. 102-83, § 5(c)(1), substituted "1741(a)" for "641(a)".

Pub. L. 102-40, § 304(a), inserted before period at end "other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 641(a) of this title".

1990—Subsec. (f). Pub. L. 101-508 added subsec. (f).

1989—Subsec. (a)(1). Pub. L. 101-237, § 111(a), substituted "\$90" for "\$60" in subpars. (A) and (B), substituted "third" for "second" in subpar. (A), and struck out "hospital or" before "nursing home care" wherever appearing in subpars. (B) and (D).

1986—Subsec. (e). Pub. L. 99-576 substituted "the veteran's" for "his" before "admission".

1984—Subsec. (b)(1). Pub. L. 98-543 designated first and second sentences as subpars. (A) and (B), respectively, and in subpar. (A), as so designated, substituted "or" for the comma after "treatment", struck out "by reason of mental illness" after "as being incompetent", inserted "(excluding the value of the veteran's home

unless there is no reasonable likelihood that the veteran will again reside in such home),” after “the veteran’s estate”, and added subpar. (C).

1983—Subsec. (a)(2). Pub. L. 98-160, § 703(4)(A), (B), substituted “spouse” for “wife”, and “the veteran” for “him”.

Subsec. (b)(1). Pub. L. 98-160, § 703(4)(A), (C), substituted “spouse” for “wife” and “the veteran’s” for “his”.

Subsec. (b)(2). Pub. L. 98-160, § 703(4)(B), (C), substituted “the veteran” for “him”, and “the veteran’s” for “his”.

Subsec. (c). Pub. L. 98-160, § 703(4)(A), substituted “spouse” for “wife”.

Subsec. (d). Pub. L. 98-160, § 703(4)(D), substituted “the veteran” for “he”.

1981—Subsec. (a)(1)(B). Pub. L. 97-66, § 602(1), substituted “Except as provided in subparagraph (D) of this paragraph, where” for “Where”.

Subsec. (a)(1)(D). Pub. L. 97-66, § 602(2), added subpar. (D).

1980—Subsec. (a)(1)(C). Pub. L. 96-385 substituted “in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph” for “of not less than two full calendar months”.

1978—Subsec. (a)(1). Pub. L. 95-588 revised and restructured par. (1) and, as so restructured, raised the maximum pension to be paid to a veteran being furnished institutional care who has neither wife nor child from \$50 per month to \$60 per month.

1973—Subsec. (a)(1). Pub. L. 93-177 substituted “\$50” for “\$30”.

1972—Subsec. (a). Pub. L. 92-328, § 104(a), (b), redesignated subsec. (d) as (a). Former subsec. (a), which related to payment of compensation or retirement pay to veterans being furnished hospital treatment, institutional or domiciliary care by the Veterans’ Administration, was struck out.

Subsec. (b)(1). Pub. L. 92-328, § 104(c), redesignated par. (2) as (1) and inserted provisions relating to the rating by the Veterans’ Administration of a veteran as incompetent by reason of mental illness and provisions relating to the payment of a lump sum to the veteran until after the expiration of six months following the finding of competency of the veteran. Former par. (1), which related to the payment of compensation or retirement pay pursuant to the provisions of subsec. (a) of this section to veterans rated by the Veterans’ Administration as incompetent, was struck out.

Subsec. (b)(2). Pub. L. 92-328, § 104(c), (d), redesignated par. (3) as (2) and substituted “(1)” for “(2)” wherever appearing. Former par. (2) redesignated (1).

Subsec. (b)(3), (4). Pub. L. 92-328, § 104(d), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (c). Pub. L. 92-328, § 104(e), struck out “(a) or” after “subsection”.

Subsec. (d). Pub. L. 92-328, § 104(b), (f), redesignated subsec. (e) as (d) and struck out “, compensation, or retirement pay” after “pension”. Former subsec. (d) redesignated (a).

Subsecs. (e), (f). Pub. L. 92-328, § 104(f), (g), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1969—Subsec. (d)(2). Pub. L. 91-24 substituted “the amount payable to the veteran while being furnished such care which would be payable to him if pension were payable under section 521(c) of this title” for “\$30 per month which would be payable to the veteran while being furnished such care if pension were payable to him under section 521(c) of this title”.

1966—Subsec. (a)(1). Pub. L. 89-362, § 1, limited the application of the rule requiring immediate reduction of withheld benefits following discharge against medical advice or as a result of disciplinary action to situations where the readmission occurs within 6 months following prior termination of the hospitalization or institutional care.

Subsec. (f). Pub. L. 89-362, § 2, limited the application of the rule requiring discontinuance of aid and attendance allowance upon readmission following departure from a hospital against medical advice to situations

where the readmission occurs within 6 months following prior termination of the hospitalization.

1964—Subsec. (f). Pub. L. 88-450 directed that any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans’ Administration, of increased pension based on need of regular aid and attendance as described in subsection (l) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran’s admission for hospitalization, and authorized discontinuance of the increased pension or additional compensation of a veteran upon readmission if he left a hospital against medical advice.

1962—Subsec. (a)(2)(A). Pub. L. 87-544 removed brothers, sisters, and nondependent parents from the permitted class of beneficiaries.

Subsec. (d)(1). Pub. L. 87-556, § 1(1), limited par. (1) to veterans having neither wife nor child.

Subsec. (d)(2). Pub. L. 87-556, § 1(2), substituted provisions making par. (1) applicable to a veteran having a wife but whose pension is payable under section 521(b) of this title, and in such case, authorized the Administrator to pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of \$30 per month payable to the veteran under section 521(c) of this title, for provisions which permitted the Administrator, to pay to the wife or children of a veteran, the balance of the pension he would receive but for par. (1) of this section.

Subsec. (f). Pub. L. 87-645 added subsec. (f).

1959—Subsec. (a)(1). Pub. L. 86-211, § 6(1), struck out references to pensions.

Subsec. (a)(2)(B). Pub. L. 86-146, § 1(b), inserted “under the last two sentences of section 3202(d) of this title or” before “under this paragraph” in two places.

Subsec. (b). Pub. L. 86-146, § 2, inserted “to the veteran” and “and in the event of the veterans’ death before payment of such lump sum no part thereof shall be payable” in par. (1); substituted “in which such an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds \$1,500, further payments of pension, compensation, or emergency officers’ retirement pay” and “paragraph” for “where the estate of such incompetent veteran derived from any source equals or exceeds \$1,500, further payments of such benefits (except retired pay, but including emergency officers’ retirement pay” and “subsection” and inserted “before payment of such lump sum” in par. (2); added par. (3); and redesignated former par. (3) as (4).

Subsec. (b)(1). Pub. L. 86-211, § 6(1), struck out reference to pension of a veteran.

Subsecs. (d), (e). Pub. L. 86-211, § 6(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 601(b)(2) of Pub. L. 111-275 effective Oct. 1, 2011, see section 601(c) of Pub. L. 111-275, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title IX, § 904(b), Nov. 11, 1998, 112 Stat. 3361, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1997.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-568, title VI, § 601(d), Oct. 29, 1992, 106 Stat. 4342, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1992, and shall apply with respect to months after September 1992. The amendment made by subsection (c) [amending this section] shall take effect on November 1, 1992, and shall apply with respect to months after October 1992.”

EFFECTIVE DATE OF 1991 AMENDMENTS

Pub. L. 102-86, title I, §101(b), Aug. 14, 1991, 105 Stat. 414, provided that: "The amendment made by subsection (a) [amending this section] shall take effect as if contained in section 111 of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2064)."

Pub. L. 102-40, title III, §304(b), May 7, 1991, 105 Stat. 209, provided that: "The amendment made by subsection (a) [amending this section] shall apply as if included in the amendment made by section 8003(a) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-874)."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title VIII, §8003(b), Nov. 5, 1990, 104 Stat. 1388-343, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on November 1, 1990, or the date of the enactment of this Act [Nov. 5, 1990], whichever is later."

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.)

Editorial Notes

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.)

Statutory Notes and Related Subsidiaries

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 Sec-