

(2) The term “independence in daily living” means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran’s family and community.

(3) The term “program of education” has the meaning provided in section 3452(b) of this title.

(4) The term “program of independent living services and assistance” includes (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Secretary to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

(5) The term “rehabilitated to the point of employability” means rendered employable in an occupation for which a vocational rehabilitation program has been provided under this chapter.

(6) The term “rehabilitation program” means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance authorized under section 3120 of this title for a veteran for whom a vocational goal has been determined not to be currently reasonably feasible.

(7) The term “serious employment handicap” means a significant impairment, resulting in substantial part from a service-connected disability rated at 10 percent or more, of a veteran’s ability to prepare for, obtain, or retain employment consistent with such veteran’s abilities, aptitudes, and interests.

(8) The term “vocational goal” means a gainful employment status consistent with a veteran’s abilities, aptitudes, and interests.

(9) The term “vocational rehabilitation program” includes—

(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Secretary to be needed—

(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be currently reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran’s potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2172, §1501; amended Pub. L. 99-576,

title III, §333(b)(1), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3101 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-275, title I, §101(a), Oct. 9, 1996, 110 Stat. 3323.)

Editorial Notes

PRIOR PROVISIONS

Prior section 3101 was renumbered section 5301 of this title.

AMENDMENTS

1996—Par. (1). Pub. L. 104-275, §101(a)(1), inserted “, resulting in substantial part from a disability described in section 3102(1)(A) of this title,” after “impairment”.

Par. (6). Pub. L. 104-275, §101(a)(2), inserted “authorized under section 3120 of this title” after “assistance”.

Par. (7). Pub. L. 104-275, §101(a)(3), inserted “, resulting in substantial part from a service-connected disability rated at 10 percent or more,” after “impairment”.

1991—Pub. L. 102-83, §5(a), renumbered section 1501 of this title as this section.

Par. (3). Pub. L. 102-83, §5(c)(1), substituted “3452(b)” for “1652(b)”.

1989—Pars. (4), (9)(A). Pub. L. 101-237 substituted “Secretary” for “Administrator”.

1986—Pars. (6)(B), (9)(A)(i). Pub. L. 99-576 inserted “currently” after “be”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-275, title I, §101(j), Oct. 9, 1996, 110 Stat. 3325, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 3102 to 3109, 3117, 3118, and 3120 of this title] shall take effect on the date of the enactment of this Act [Oct. 9, 1996].

“(2) The amendments made by subsection (a) (other than paragraph (2)) [amending this section], subsection (d) (other than subparagraphs (A) and (B) of paragraph (1)) [amending section 3104 of this title], and subsection (i) [amending section 3120 of this title] shall only apply with respect to claims of eligibility or entitlement to services and assistance (including claims for extension of such services and assistance) under chapter 31 of title 38, United States Code, received by the Secretary of Veterans Affairs on or after the date of the enactment of this Act, including those claims based on original applications, and applications seeking to reopen, revise, reconsider, or otherwise adjudicate or readjudicate on any basis claims for services and assistance under such chapter.”

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, as amended, set out as a note under section 3100 of this title.

§ 3102. Basic entitlement

(a) IN GENERAL.—A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

(1) the person—

(A) is—

(i) a veteran who has a service-connected disability rated at 20 percent or more which was incurred or aggravated in service on or after September 16, 1940; or

(ii) hospitalized or receiving outpatient medical care, services, or treatment for a

service-connected disability pending discharge from the active military, naval, air, or space service, and the Secretary determines that—

(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

(B) is determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

(2) the person is a veteran who—

(A) has a service-connected disability rated at 10 percent which was incurred or aggravated in service on or after September 16, 1940; and

(B) is determined by the Secretary to be in need of rehabilitation because of a serious employment handicap.

(b) ADDITIONAL REHABILITATION PROGRAMS FOR PERSONS WHO HAVE EXHAUSTED RIGHTS TO UNEMPLOYMENT BENEFITS UNDER STATE LAW.—(1) Except as provided in paragraph (4), a person who has completed a rehabilitation program under this chapter shall be entitled to an additional rehabilitation program under the terms and conditions of this chapter if—

(A) the person is described by paragraph (1) or (2) of subsection (a); and

(B) the person—

(i) has exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year;

(ii) has no rights to regular compensation with respect to a week under such State or Federal law; and

(iii) is not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(C) begins such additional rehabilitation program within six months of the date of such exhaustion.

(2) For purposes of paragraph (1)(B)(i), a person shall be considered to have exhausted such person's rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such person has received all regular compensation available to such person based on employment or wages during such person's base period; or

(B) such person's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(3) In this subsection, the terms "compensation", "regular compensation", "benefit year", "State", "State law", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(4) No person shall be entitled to an additional rehabilitation program under paragraph (1) from whom the Secretary receives an application therefor after March 31, 2014.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2173, §1502; amended Pub. L. 101-237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101-508, title VIII, §8021(a), Nov. 5, 1990, 104 Stat. 1388-347; Pub. L. 102-16, §3(a), Mar. 22, 1991, 105 Stat. 49; renumbered §3102, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title IV, §404(a), Oct. 29, 1992, 106 Stat. 4338; Pub. L. 104-275, title I, §101(b), Oct. 9, 1996, 110 Stat. 3323; Pub. L. 112-56, title II, §233(a)(1), Nov. 21, 2011, 125 Stat. 719; Pub. L. 116-283, div. A, title IX, §926(a)(41), Jan. 1, 2021, 134 Stat. 3830.)

Editorial Notes

REFERENCES IN TEXT

Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (b)(3), is section 205 of Pub. L. 91-373, which is set out as a note under section 3304 of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Prior section 3102 was renumbered section 5302 of this title.

AMENDMENTS

2021—Subsec. (a)(1)(A)(ii). Pub. L. 116-283 substituted "air, or space service" for "or air service".

2011—Pub. L. 112-56 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1996—Par. (1)(A)(i). Pub. L. 104-275, §101(b)(1), substituted "rated at 20 percent or more" for "which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and".

Par. (2)(A). Pub. L. 104-275, §101(b)(2), substituted "rated at 10 percent" for "which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and".

Par. (2)(B). Pub. L. 104-275, §101(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "has a serious employment handicap."

1992—Pub. L. 102-568 amended section generally, making changes in substance and structure.

1991—Pub. L. 102-83 renumbered section 1502 of this title as this section.

Par. (1)(B). Pub. L. 102-16 substituted "or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that (i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned, and (ii) the person is suffering from a disability which" for "for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the Secretary determines".

1990—Par. (1). Pub. L. 101-508 substituted "compensable at a rate of 20 percent or more" for "compensable" in cls. (A) and (B).

1989—Pub. L. 101-237 substituted "Secretary determines" for "Administrator determines" in par. (1)(B) and "Secretary" for "Administrator" in par. (2).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112-56, title II, §233(c), Nov. 21, 2011, 125 Stat. 720, provided that: "The amendments made by subsections (a) and (b) [amending this section and sections 3103 and 3105 of this title] shall take effect on June 1, 2012, and shall apply with respect to rehabilitation programs beginning after such date."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-568, title IV, §404(b), Oct. 29, 1992, 106 Stat. 4338, as amended by Pub. L. 103-446, title VI, §602(c)(1), Nov. 2, 1994, 108 Stat. 4671, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993, but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990."

[Pub. L. 103-446, title VI, §602(c)(2), Nov. 2, 1994, 108 Stat. 4671, provided that: "The amendment made by paragraph (1) [amending section 404(b) of Pub. L. 102-568, set out above] shall take effect as of October 29, 1992."]

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title VIII, §802(b), Nov. 5, 1990, 104 Stat. 1388-347, provided that: "The amendments made by this section [amending this section] shall apply to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after November 1, 1990."

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

§ 3103. Periods of eligibility

(a) Except as provided in subsection (b), (c), (d), (e), or (g) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, air, or space service.

(b)(1) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Secretary shall prescribe, for such veteran to participate in such a program.

(2) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because—

(A) such veteran had not met the requirement of a discharge or release from active military, naval, air, or space service under conditions other than dishonorable before (i) the nature of such discharge or release was

changed by appropriate authority, or (ii) the Secretary determined, under regulations prescribed by the Secretary, that such discharge or release was under conditions other than dishonorable, or

(B) such veteran's discharge or dismissal was, under section 5303 of this title, a bar to benefits under this title before the Secretary made a determination that such discharge or dismissal is not a bar to such benefits,

the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

(3) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability rated at 10 percent or more, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

(c) In any case in which the Secretary determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Secretary also determines, on the basis of such veteran's current employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

(1) that such veteran had not previously been rehabilitated to the point of employability;

(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such veteran's current employment handicap and capabilities; or

(3) under regulations which the Secretary shall prescribe, that an extension of the period of eligibility of such veteran is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d) In any case in which the Secretary has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance in accordance with the provisions of section 3120 of this title after the expiration of the period of eligibility otherwise applicable to such veteran if the Secretary also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.