

tion, pension, or insurance purposes under laws administered by the Secretary, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud. A disability which has been continuously rated at or above evaluation for twenty or more years for compensation purposes under laws administered by the Secretary shall not thereafter be rated at less than such evaluation, except upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Secretary as the date on which the status commenced for rating purposes.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 87-825, § 6, Oct. 15, 1962, 76 Stat. 950; Pub. L. 88-445, § 1(a), (b), Aug. 19, 1964, 78 Stat. 464; Pub. L. 91-32, June 23, 1969, 83 Stat. 38; Pub. L. 102-83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403-405.)

AMENDMENTS

1991—Pub. L. 102-83 substituted “Secretary” for “Administrator” and substituted “administered by the Secretary” for “administered by the Veterans’ Administration” in two places.

1969—Pub. L. 91-32 substituted “evaluation” for “percentage” wherever appearing.

1964—Pub. L. 88-445 substituted “Preservation of disability ratings” for “Preservation of total disability ratings” in section catchline, and inserted sentence directing that a disability which has been continuously rated at or above any percentage for twenty or more years for compensation purposes shall not thereafter be rated at less than such percentage, except upon a showing that such rating was based on fraud.

1962—Pub. L. 87-825 provided for computation of the period from the date the Administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1 of Pub. L. 91-32 provided that the amendment made by that section is effective Aug. 19, 1964.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 7 of Pub. L. 87-825 provided that: “This Act [see Tables for classification] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [Oct. 15, 1962], but no payments shall be made by reason of this Act for any period before such effective date. Payments for any period before such effective date shall be made under prior laws and regulations. The provisions of this Act with respect to reductions and discontinuances shall be applicable only where the event requiring such reduction or discontinuance occurs on or after such effective date. If such event occurred before such effective date, action shall be taken pursuant to the prior laws and regulations.”

§ 111. Payments or allowances for beneficiary travel

(a) Under regulations prescribed by the President pursuant to the provisions of this section, the Secretary may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Department facility or other place in connection with vocational rehabilitation, counseling required by the Secretary pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mile-

age allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Secretary exercises the authority under this section to make any payments, the Secretary shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

(B) A veteran with a service-connected disability rated at 30 percent or more.

(C) A veteran receiving pension under section 1521 of this title.

(D) A veteran (i) whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title, or (ii) who is determined, under regulations prescribed by the Secretary, to be unable to defray the expenses of the travel for which payment under this section is claimed.

(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Department facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

(F) A veteran whose travel to a Department facility is incident to a scheduled compensation and pension examination.

(2) The Secretary may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Secretary shall prescribe.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the Secretary shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Secretary before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Secretary to use that mode of travel would have been hazardous to the person's life or health.

(B) In the case of travel by a person to or from a Department facility by special mode of travel, the Secretary may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Secretary determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount

of the payment if such person is determined to have been ineligible for payment for such travel.

(c)(1) Except as otherwise provided in this subsection, the Secretary, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to \$3 for each one-way trip.

(2) In the case of a person who is determined by the Secretary to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Secretary pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed \$18.

(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Department facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

(4) The Secretary may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Secretary shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph.

(5) Whenever the Secretary increases or decreases the rates of allowances or reimbursement to be paid under this section, the Secretary shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.

(d) Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) The mileage allowance authorized by subsection (a) of this section.

(2) Actual local travel expenses.

(3) The expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

(e) When any person entitled to mileage under this section requires an attendant (other than an employee of the Department) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(f) The Secretary may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Department facility.

(g)(1) In carrying out the purposes of this section, the Secretary, in consultation with the Ad-

ministrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Department facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Secretary shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, pursuant to regulations which the Secretary shall prescribe, to be unable to defray the expenses of such travel (except with respect to a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 1521 of this title, or a person whose annual income, determined in accordance with section 1503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 1521 of this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

(3) In conducting investigations and determining rates under this section, the Secretary shall review and analyze, among other factors, the following factors:

(A)(i) Depreciation of original vehicle costs;

(ii) gasoline and oil costs;

(iii) maintenance, accessories, parts, and tire costs;

(iv) insurance costs; and

(v) State and Federal taxes.

(B) The availability of and time required for public transportation.

(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

(4) Before determining rates or adjusting amounts under this section and not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the

rates and amounts the Secretary proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

(h) The Secretary, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Department, would take responsibility for the transportation, without reimbursement from the Department, to Department facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Department under chapter 17 or other provisions of this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 86-590, July 5, 1960, 74 Stat. 329; Pub. L. 89-358, §4(g), Mar. 3, 1966, 80 Stat. 24; Pub. L. 89-455, June 18, 1966, 80 Stat. 208; Pub. L. 94-581, title I, §101, Oct. 21, 1976, 90 Stat. 2842; Pub. L. 96-151, title II, §201(a), Dec. 20, 1979, 93 Stat. 1093; Pub. L. 97-295, §4(5), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 100-322, title I, §108(a), (b)(1), (c)-(e)(1), May 20, 1988, 102 Stat. 496-498; Pub. L. 102-83, §§4(a)(3), (4), (6), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 103-446, title XII, §1201(e)(1), Nov. 2, 1994, 108 Stat. 4685.)

AMENDMENTS

1994—Subsec. (b)(3)(B). Pub. L. 103-446 substituted “a Department facility” for “the Department facility”.

1991—Subsec. (a). 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”.

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

Subsec. (b)(1)(C), (D). Pub. L. 102-83, §5(c)(1), substituted “1521” for “521” in subpar. (C) and “1503” for “503” and “1521” for “521” in subpar. (D).

Subsec. (b)(1)(E), (F). Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans' Administration”.

Subsec. (b)(3)(B). Pub. L. 102-83, §4(a)(6), substituted “Department facility” for “Veterans' Administration facility”.

Subsec. (c)(1), (2). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c)(3). Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans' Administration”.

Subsec. (c)(4), (5). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (e). Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans' Administration”.

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

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

Subsec. (g)(1). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for first and third references to “Administrator”.

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

Subsec. (g)(2)(A). Pub. L. 102-83, §5(c)(1), substituted “1521” for “521” in two places and “1503” for “503”.

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

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

Subsec. (h). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for first reference to “Administrator”.

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans' Administration” wherever appearing.

1988—Pub. L. 100-322, §108(e)(1), substituted “Payments or allowances for beneficiary travel” for “Travel expenses” in section catchline.

Subsecs. (b), (c). Pub. L. 100-322, §108(a)(2), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 100-322, §108(a)(1), (d), redesignated subsec. (b) as (d), and in par. (1) substituted “The mileage” for “the mileage” and “of this section.” for “hereof;”, in par. (2) substituted “Actual” for “actual” and a period for a semicolon, and in par. (3) substituted “The expense” for “the expense”. Former subsec. (d) redesignated (f).

Subsecs. (e), (f). Pub. L. 100-322, §108(a)(1), redesignated subsecs. (c) and (d) as (e) and (f), respectively. Former subsec. (e) redesignated (g).

Subsec. (g). Pub. L. 100-322, §108(a)(1), (c), redesignated subsec. (e) as (g), and in par. (4) substituted “Before determining rates or adjusting amounts” for “Before determining rates” and “containing the rates and amounts” for “containing the rates”.

Subsec. (h). Pub. L. 100-322, §108(b)(1), added subsec. (h).

1982—Subsec. (e)(4). Pub. L. 97-295 substituted “and” for “, and not later than sixty days after the effective date of this subsection, and thereafter” after “under this section”.

1979—Subsec. (e)(2)(A). Pub. L. 96-151 substituted provisions respecting determinations pursuant to regulations prescribed by the Administrator, subject to applicable exceptions, for provisions respecting determinations based on annual declarations and certifications by persons claiming reimbursements, subject to applicable exceptions.

1976—Subsec. (a). Pub. L. 94-581, §101(1), inserted “pursuant to the provisions of this section” after “President”.

Subsec. (e). Pub. L. 94-581, §101(2), added subsec. (e).

1966—Subsec. (a). Pub. L. 89-358 substituted reference to chapter 34 for 33.

Subsec. (b). Pub. L. 89-455 authorized the prepayment of actual local travel expenses and the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

1960—Subsec. (a). Pub. L. 86-590 allowed reimbursement for actual cost of ferry fares, and bridge, road, and tunnel tolls.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 108(g) of Pub. L. 100-322 provided that: “The amendments made by subsection (a) [amending this section] shall take effect with respect to travel performed after June 30, 1988.”

EFFECTIVE DATE OF 1979 AMENDMENT

Section 206 of title II of Pub. L. 96-151 provided that: “Except as otherwise provided in section 205(b), the amendments made by this title [amending this section and sections 601, 614, and 628 [now 1701, 1714, and 1728] of this title] shall take effect on January 1, 1980.”

EFFECTIVE DATE OF 1976 AMENDMENT

Section 211 of Pub. L. 94-581 provided that: “Except as otherwise provided in this Act, the amendments made by this Act [see Tables for classification] to title 38, United States Code, shall take effect on October 1, 1976, or on the date of enactment [Oct. 21, 1976], whichever is later.”

TRANSITION PROVISION FOR 1988 AMENDMENT

Section 108(f) of Pub. L. 100-322 provided that: “In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that sec-

tion to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act [May 20, 1988]."

INTERIM GUIDELINES FOR BENEFICIARY TRAVEL BETWEEN JANUARY 1, 1984, AND THE PROMULGATION OF REGULATIONS BY ADMINISTRATOR OF VETERANS' AFFAIRS

Pub. L. 98-160, title I, §108, Nov. 21, 1983, 97 Stat. 999, provided that promulgation of guidelines pending issuance of regulations covering the travel of beneficiaries during an interim period beginning Jan. 1, 1984, and directed that a report be made to Congress not later than Apr. 1, 1984, regarding travel payments.

AVAILABILITY OF FUNDS FOR TRAVEL OF ELIGIBLE VETERANS, DEPENDENTS, OR SURVIVORS

Pub. L. 96-330, title IV, §406, Aug. 26, 1980, 94 Stat. 1052, provided that: "No provision of law enacted after the date of the enactment of this Act [Aug. 26, 1980] which imposes any restriction or limitation on the availability of funds for the travel and transportation of officers and employees of the executive branch of the Government and their dependents, or on the transportation of things of such officers and employees and their dependents, shall be applicable to the travel of eligible veterans, dependents, or survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, unless such provision is expressly made applicable to the travel of such veterans, dependents, or survivors."

EXECUTIVE ORDER NO. 10810

Ex. Ord. No. 10810, Apr. 22, 1959, 24 F.R. 3179, as amended by Ex. Ord. No. 10881, July 6, 1960, 25 F.R. 6414, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479.

EXECUTIVE ORDER NO. 11142

Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11302, Sept. 6, 1966, 31 F.R. 11741, set out below.

EX. ORD. NO. 11302. REGULATIONS GOVERNING ALLOWANCES

Ex. Ord. No. 11302, Sept. 6, 1966, 31 F.R. 11741, as amended Ex. Ord. No. 11429, Sept. 9, 1968, 33 F.R. 12817; Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, provided:

By virtue of the authority vested in me by Section 111 of Title 38 of the United States Code, as amended by the Act of June 18, 1966 (Public Law 89-455), it is hereby ordered as follows:

SECTION 1. The Administrator of Veterans' Affairs may authorize or approve the payment of the actual necessary expenses of travel, including lodging and subsistence, of any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. The Administrator may authorize or approve such payment to the claimant or beneficiary, or, in his discretion, to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 2. The Administrator of Veterans' Affairs may authorize or approve in lieu of actual necessary expenses of travel, including lodging and subsistence, payment of an allowance, in such amount per mile as the Administrator shall from time to time fix pursuant to 38 U.S.C. 111 as affected by this order, to any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. In addition to such mileage al-

lowance, the Administrator may allow reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. In his discretion, the Administrator may authorize or approve such payment and such reimbursement to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 3. Whenever a claimant or beneficiary requires an attendant other than an employee of the Veterans' Administration for the performance of travel specified in Section 1 and 2 hereof, the travel expenses of such attendant may be allowed in the same manner and to the same extent that travel expenses are allowed to such claimant or beneficiary.

SEC. 4. Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

a. The mileage allowance and fare and tolls authorized by Section 2 hereof.

b. Actual local travel expenses.

c. The expense of hiring an automobile or ambulance, or the fee authorized for services of a non-employee attendant.

SEC. 5. The Administrator of Veterans' Affairs may prescribe such rules and regulations not inconsistent herewith as may be necessary to effectuate the provisions of this order.

SEC. 6. Executive Order No. 11142 of February 12, 1964, is hereby superseded.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701, 1714, 1720, 1728, 1782, 3104 of this title.

§ 112. Presidential memorial certificate program

(a) At the request of the President the Secretary may conduct a program for honoring the memory of deceased veterans, discharged under honorable conditions, by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the veteran's service in the Armed Forces. The award of a certificate to one eligible recipient will not preclude authorization of another certificate if a request is received from some other eligible recipient.

(b) For the purpose of this section an "eligible recipient" means the next of kin, a relative or friend upon request, or an authorized service representative acting on behalf of such relative or friend.

(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.

(Added Pub. L. 89-88, §1(a), July 24, 1965, 79 Stat. 264; amended Pub. L. 102-83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 107-330, title II, §201(a), Dec. 6, 2002, 116 Stat. 2823.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107-330 added subsec. (c).

1991—Subsec. (a). Pub. L. 102-83 substituted "Secretary" for "Administrator".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-330, title II, §201(d), Dec. 6, 2002, 116 Stat. 2823, provided that: "The amendments made by this section [amending this section and sections 2301 and 2306 of this title] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Dec. 6, 2002]."