

FOR FURTHER INFORMATION CONTACT: Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorized the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veteran's benefit claimants and their representatives in the persecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

VAOPGCPREC 1-96

Questions Presented: a. Do the provisions of 38 CFR 3.114(b) apply to cases in which benefits are reduced or terminated as the result of a judicial precedent?

b. If so, when, in such cases, benefits are awarded to one individual as the surviving spouse of a veteran and discontinued to another individual previously awarded benefits based on a "deemed valid" marriage to the veteran, is the effective date of the discontinuance of the latter individual's benefits governed by 38 CFR 3.114(b) or 38 CFR § 3.657(a)?

Held: a. The provisions of 38 U.S.C. 5112(b)(6) and 38 CFR 3.114(b), which govern the effective date of a reduction or discontinuance of benefits by reason of a change in law or administrative issue or a change in interpretation of a law or administrative issue, are applicable to cases in which benefits are reduced or terminated by reason of a change in the interpretation of law resulting from a judicial precedent.

b. When, as the result of such a change in interpretation, an award of benefits is established for one individual as the legal surviving spouse of a veteran and discontinued for another individual who had previously received benefits based on a marriage to the veteran deemed valid pursuant to 38

U.S.C. 103(a), the effective date of the award to the legal surviving spouse is governed by 38 U.S.C. 5110(a), which provides for establishment of an effective date in accordance with the facts found, but not earlier than the date of receipt of an application for benefits. The effective date of the discontinuance to the prior payee is governed by 38 U.S.C. 5112(b)(6) and 38 CFR 3.114(b). To the extent that application of 38 CFR 3.657(a) would, in a particular case, suggest that the prior payee's award be terminated at a date earlier than that provided by 38 U.S.C. 5112(b)(6), that regulation must be considered superseded by section 5112(b)(6).

EFFECTIVE DATE: February 17, 1996.

VAOPGCPREC 2-96

Question Presented: Whether, under 38 U.S.C. 5313, a veteran who was paroled after being incarcerated for conviction of a felony is entitled to full compensation for a service-connected disability for the period during which he violated the conditions of parole?

Held: The provisions of 38 U.S.C. 5313 do not apply to a veteran who is a parole following incarceration for conviction of a felony and who is in violation of one or more of the conditions of parole, unless the veteran has been reincarcerated.

EFFECTIVE DATE. May 13, 1996.

VAOPGCPREC 3-96

Question Presented: How should reimbursements for the costs of VA furnished medical care received from health insurance policies of insured veterans be applied to their obligation to pay VA a portion of the cost of that care?

Held: 1. Veterans covered by health insurance policy who are obligated to VA for a portion of the cost of their nonservice-connected medical care should be allowed to satisfy their obligation(s) to VA to the extent of coverage available under their policies.

2. Non-Medigap insurance proceeds should be applied to the veteran's VA copayment debt, after subtracting the policy deductible, by applying the same percentage factor of payment as corresponds to the insurer's liability for the remainder of allowable charges.

3. Reimbursements from Medigap carriers should first be applied to the veterans' copayment debt(s), including "means test" copayment, per diem copayments, outpatient copayments, and prescription copayments before application of those proceeds to the carrier's debt.

Effective Date: May 23, 1996.

By Direction of the Secretary.

Mary Lou Keener,

General Counsel.

[FR Doc. 96-18582 Filed 7-22-96; 8:45 am]

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Advisory Committee on Minority Veterans, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 103-446, gives notice that a meeting of the Advisory Committee on Minority Veterans will be held August 1, 1996, in Washington, DC. The purpose of the Advisory Committee on Minority Veterans is to advise the Secretary of Veterans Affairs on the administration of VA benefits and services for minority veterans and to assess the needs of minority veterans and evaluate whether VA compensation, medical and rehabilitation services, outreach, and other programs are meeting those needs. The Committee will make recommendations to the Secretary regarding such activities.

The meeting will convene in room 530, VA Central Office (VACO) Building, 810 Vermont Avenue, NW., Washington, DC, from 2:00 p.m. to 5:30 p.m. The meeting will be conducted by way of a conference call. Committee members residing in the Washington Metropolitan area will be present in room 530. All other members will be linked via telephone. The Committee will meet to work on recommendations to be included in its annual report to the Secretary. The Committee will continue to discuss subcommittee reports and findings. The Committee will complete drafting of the annual report to the Secretary. All sessions will be open to the public up to the seating capacity of the room. Because seating is limited, it will be necessary for those wishing to attend to contact Mrs. Angelia Sare, Department of Veterans Affairs (phone (202) 273-6708) prior to July 31, 1996. No time will be allocated for the purpose of receiving oral presentations from the public; however, the Committee will accept appropriate written comments from interested parties on issues affecting minority veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Minority Veterans, Center for Minority Veterans (00M), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: July 16, 1996.
Heyward Bannister,
Committee Management Officer.
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