

IV. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities.

Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

OSM has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 20, 1998.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 98-11282 Filed 4-28-98; 8:45 am]

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DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AH76

Claims and Effective Dates for the Award of Educational Assistance

AGENCIES: Department of Defense, Department of Transportation (Coast Guard), and Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the educational assistance and educational benefit regulations of the Department of Veterans Affairs (VA). It proposes a standard for determining what constitutes a formal claim, an informal claim, and an abandoned claim that can be applied uniformly to the educational assistance programs VA administers. In addition, it proposes less restrictive effective dates for awards of educational assistance; proposes uniform time limits for acting to complete claims; and proposes to state VA's responsibilities when a claim is filed. It appears that this rule will result in a more uniform adjudication of claims for educational assistance under

each of the education programs VA administers.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Mail or hand deliver written comments to Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH76." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

Comments on the collection of information contained in this proposal should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand delivered to the Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AH76." All written comments to VA will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: William G. Susling, Jr., Education Adviser, Education Service (225C), Veterans Benefits Administration, (202) 273-7187.

SUPPLEMENTARY INFORMATION: Regulations concerning VA-administered educational assistance and educational benefits are contained in 38 CFR Part 21. Rules governing time limits for filing claims or completing claims are contained in subparts B, C, G, H, K, and L. Each rule is applicable to one of the educational programs VA administers. Although there is no statutory reason why the rules could not be identical, they are not. This proposed rule would put one set of regulations concerning time limits in subpart B and apply them to all the educational programs VA administers. This would result in the following changes.

Regulations governing the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) do not permit extension of time limits to act to perfect a claim or to challenge an

adverse VA decision. An extension is permitted in the regulations governing the Survivors' and Dependents' Educational Assistance program (DEA), the Montgomery GI Bill—Active Duty (MGIB), and the Montgomery GI Bill—Selected Reserve (MGIB-SR). There appears to be no reason why VEAP should be treated differently from the other education programs VA administers since 38 U.S.C. chapter 51 is the basis for having time limits in each of these programs. This proposed rule would permit the same extension of the time limits to perfect a claim or to challenge an adverse decision in VEAP as exists in other programs.

The regulations governing the Educational Assistance Test Program (EATP) and those governing MGIB-SR do not provide that VA's failure to notify a claimant of the time limit to complete a claim or to act to challenge an adverse VA decision will extend the time limits for taking those actions. The regulations governing VEAP, DEA, and MGIB provide such an automatic extension. It does not appear that there is a valid reason to retain the different rule for EATP and MGIB-SR, since VA's failure to notify a claimant under these programs would have an adverse effect equal to a similar failure in the other three programs. This proposed rule would provide EATP and MGIB-SR with an automatic extension of the time limit on the same basis as has been provided in VEAP.

Current regulations use terms related to the filing of claims, such as "informal claim" that are not fully defined. This lack of definition would be corrected in this rule through the adding of definitions to subpart B. These definitions are as follows.

Proposed § 21.1029(a) defines an abandoned claim either as one where VA has asked for evidence, and the claimant does not furnish the evidence within one-year or does not show good cause why the one year time limit could not be met; or one based on an informal claim where VA has requested a formal claim but has not either received one within one year of the request or the claimant has not shown good cause why the claim could not be submitted within a year of the request. This definition is based upon 38 U.S.C. 5103(a) which provides that if VA asks a claimant to complete a claim, and the claimant does not do so within a year, no benefits are payable based on that claim. While the statute does not label the claim an abandoned claim, in fact, it has been abandoned. It would appear that this definition is appropriate.

Further, the regulations regarding a claim for educational assistance under

MGIB state at § 21.7032(c) that a reactivated claim after abandonment constitutes a new claim. However, at § 21.7131(d) the regulations describe such a reactivated claim as a reopened claim. Since the effective date of benefits would relate to the new claim, it seems more appropriate to describe a reactivated claim after abandonment as a new claim. Accordingly, the regulations would be amended to consistently describe a reactivated claim after abandonment as a new claim.

Proposed § 21.1029(c) defines a formal claim as one that has been made in the form prescribed by the Secretary of Veterans Affairs (or designee) including one that is a claim for an increase in educational assistance as the result of an increase in the number of dependents, or one that is a claim for an extension of the eligibility period to receive educational assistance. 38 U.S.C. 5101(a) states that claimants are required to file claims on the form prescribed by the Secretary. Again, the statute does not label this as a formal claim, but it would appear that this is a reasonable definition. Such a definition would eliminate the need to repeat the statutory language whenever the regulations need to refer to the action required by 38 U.S.C. 5101.

The proposed rule defines an informal claim as one where the claimant, a representative, or a Member of Congress indicates a desire on the part of the claimant to receive educational assistance, but also states that the mere act of enrolling in an approved school is not an informal claim. This definition is based upon the discussion of informal claims contained in §§ 21.1031, 21.3031, and 21.7030(b). By permitting informal claims, VA is able to base effective dates upon them. It appears that the definition is consistent with past practice and will provide an equitable way to determine a claimant's date of claim.

Finally, the term "VA" in this proposed rule is defined as the United States Department of Veterans Affairs. This abbreviation is used with this meaning throughout this subpart, without being defined. It appears that to do so would eliminate any confusion caused by the use of this term.

Receipt of a formal claim for benefits from an individual and receipt of an enrollment certification from his or her school verifying the individual's actual pursuit of a program of education are necessary prerequisites to the award of educational assistance to the individual. The regulations governing the effective dates for awards of educational assistance generally provide that the commencing date of an award will be the later of one year before the date of

receipt of the claim or one year before the date of receipt of the enrollment certification from the school. These regulations were adopted when the normal method of receiving the enrollment certification was through the mails. Today, VA receives many enrollment certifications electronically. Delays in receipt of the certification are not the fault of the Postal Service, but rather the educational institution. Since it appears that certification of enrollment is not under the veteran's control, this proposed rule would revise the regulations governing effective dates to eliminate this provision. The proposal would base effective dates on the date of claim, without regard to receipt of the enrollment certification.

This document also would amend § 21.7631 to reflect statutory requirements for effective dates for awards of educational assistance for MGIB-SR.

The Department of Defense (DOD) is issuing this proposal jointly with VA insofar as it relates to VEAP and EATP. These programs are funded by DOD and administered by VA. DOD, the Department of Transportation (Coast Guard), and VA are jointly issuing this proposal insofar as it relates to the MGIB-SR. This program is funded by DOD and the Coast Guard, and is administered by VA. The remainder of this proposal is issued solely by VA.

Paperwork Reduction Act of 1995

The Office of Management and Budget (OMB) has determined that the proposed 38 CFR 21.1030 would constitute a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Accordingly, under section 3507(d) of the Act VA has submitted a copy of this rulemaking action to OMB for its review. OMB assigns control numbers to collections of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Claim for Educational Assistance.

Summary of collection of information: The provisions of the proposed § 21.1030 would restate a statutory requirement (38 U.S.C. 5101(a)) that provides that no benefits may be paid or furnished to an individual until VA receives from the individual a claim for the benefit sought in the form prescribed by the Secretary. The proposed regulation adds language as to what information needs to be included in a claim.

Description of need for information and proposed use of information: The claim required in the proposed 38 CFR 21.1030 helps VA determine who is eligible for DEA, EATP, VEAP, MGIB, and MGIB-SR.

Description of likely respondents: The respondents will be individuals who wish to receive educational assistance from VA for pursuit of a program of education.

Estimated number of respondents: 345,048.

Estimated frequency of responses: Occasionally, when an individual wants to pursue a new program of education.

Estimated total annual reporting and recordkeeping burden: 178,484 hours of reporting burden. VA estimates that there would be no additional recordkeeping burden imposed.

Estimated average burden per respondent: 31 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collection(s) of information are necessary for the proposed performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

The signers of this document hereby certify that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The proposed rule will affect only individuals and will not directly affect any small entities. Therefore, pursuant

to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 602 and 604.

The Catalog of Federal Domestic Assistance number for the programs affected by this proposed rule are 64.117, 64.120, and 64.124. This proposed rule will affect the Montgomery GI Bill—Selected Reserve which has no Catalog of Federal Domestic Assistance number.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 22, 1998.

Togo D. West, Jr.,

Acting Secretary.

Approved: March 18, 1998.

Normand G. Lezy,

Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy), Department of Defense.

Approved: February 26, 1998.

G. F. Woolever,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.

For the reasons set out above, 38 CFR part 21 (subparts B, C, D, G, H, K, and L) is proposed to be amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart B—Claims and Applications for Educational Assistance

1. The authority citation for part 21, subpart B continues to read as follows:

Authority: 38 U.S.C. 501(a), 38 U.S.C. chapter 51, unless otherwise noted.

2. Section 21.1029 is added, to read as follows:

§ 21.1029 Definitions.

These definitions apply to this subpart, and to subparts C, D, G, H, K, and L of this part.

(a) *Abandoned claim.* A claim is an *abandoned claim* if:

(1) In connection with a formal claim VA requests that the claimant furnish additional evidence, and the claimant—

(i) Does not furnish that evidence within one year of the date of the request; and

(ii) Does not show good cause why the evidence could not have been submitted within one year of the date of the request; or

(2) In connection with an informal claim, VA requests a formal claim, and—

(i) VA does not receive the formal claim within one year of the date of request; and

(ii) The claimant does not show good cause why he or she could not have filed the formal claim in sufficient time for VA to have received it within one year of the date of the request.

(Authority: 38 U.S.C. 5103(a))

(b) *Date of claim.* The *date of claim* is the date on which a valid claim or application for educational assistance is considered to have been filed with VA, for purposes of determining the commencing date of an award of that educational assistance.

(1) If an informal claim is filed and VA receives a formal claim within one year of the date VA requested it, or within such other period of time as provided by § 21.1032, the date of claim, subject to the provisions of paragraph (b)(3) of this section, is the date VA received the informal claim.

(2) If a formal claim is filed other than as described in paragraph (b)(1) of this section, the date of claim, subject to the provisions of paragraph (b)(3) of this section, will be the date VA received the formal claim.

(3) If a formal claim itself is abandoned and a new formal or informal claim is filed, the date of claim will be as provided in paragraph (b)(1) or (b)(2) of this section, as appropriate.

(Authority: 38 U.S.C. 5103)

(c) *Formal claim.* A claim is a *formal claim* when the claimant (or his or her authorized representative) files the claim with VA, and—

(1) The claim is a claim for—
(i) Educational assistance;
(ii) An increase in educational assistance; or

(iii) An extension of the eligibility period for receiving educational assistance; and

(2) If there is a form (either paper or electronic) prescribed by the Secretary of Veterans Affairs or his or her designee, the claim is filed on that form.

(Authority: 38 U.S.C. 5101(a))

(d) *Informal claim.* (1) If the Secretary of Veterans Affairs has prescribed a form (either paper or electronic) to use in claiming the benefit sought, the term *informal claim* means—

(i) Any communication from an individual, or from an authorized representative or a Member of Congress on that individual's behalf that indicates a desire on the part of the individual to claim or to apply for VA-administered educational assistance; or

(ii) A claim from an individual or from an authorized representative on that individual's behalf for a benefit described in paragraph (c)(1) of this section that is filed in a document other than in the prescribed form.

(2) If the Secretary of Veterans Affairs has not prescribed a form (either paper or electronic) to use in claiming the benefit sought, the term *informal claim* means any communication, other than a formal claim, from an individual, or from an authorized representative or a Member of Congress on that individual's behalf that indicates a desire on the part of the individual to claim or to apply for VA-administered educational assistance.

(3) When VA requests evidence in connection with a claim, and the claimant submits that evidence to VA after having abandoned the claim, the claimant's submission of the evidence is an informal claim.

(4) The act of enrolling in an approved school is not an informal claim.

(5) VA will not consider a communication received from a service organization, an attorney, or agent to be an informal claim if a valid power of attorney, executed by the claimant, is not in effect at the time the communication is written.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3034(a), 3241(a), 3471, 3513, 5101(a), 5102, 5901)

(e) VA. The term VA means the United States Department of Veterans Affairs.

(Authority: 38 U.S.C. 301)

3. Section 21.1030 is revised to read as follows:

§ 21.1030 Claims.

An individual must file a formal claim for educational assistance for pursuit of a program of education, indicating the proposed place of training, the school or training establishment, the objective of the program of education, and such other information as the Secretary may require. A servicemember also must consult with his or her service education officer before filing a formal claim for educational assistance.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3034(a), 3241(a), 3471, 3513, 5101(a))

4. Section 21.1031 is revised to read as follows.

§ 21.1031 VA responsibilities when a claim is filed.

(a) *VA will furnish forms.* VA will furnish all necessary claim forms, instructions, and, if appropriate, a description of any supporting evidence required upon receipt of an informal claim.

(Authority: 38 U.S.C. 5102)

(b) *Request for additional evidence.* If a formal claim for educational assistance is incomplete, or if VA requires additional evidence or information to adjudicate the claim, VA will notify the claimant of the evidence and/or information necessary to complete or adjudicate the claim and of the time limit provisions of § 21.1032(a).

(Authority: 38 U.S.C. 5103)

5. § 21.1032 is revised to read as follows:

§ 21.1032 Time limits.

The provisions of this section are applicable to informal claims and formal claims.

(a) *Failure to furnish form, information, or notice of time limit.*

VA's failure to give a claimant or potential claimant any form or information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the time periods allowed for these actions.

(Authority: 38 U.S.C. 5101, 5113)

(b) *Notice of time limit for filing evidence.* If a claimant's claim is incomplete, VA will notify the claimant of the evidence necessary to complete the claim. Unless payment of educational assistance is permitted by paragraph (e) of this section, if the evidence is not received within one year from the date of such notification, VA will not pay educational assistance by reason of that claim.

(Authority: 38 U.S.C. 5103)

(c) *Time limit for filing a claim for an extended period of eligibility under 38 U.S.C. chapter 30, 32, or 35.* VA must receive a claim for an extended period of eligibility provided by §§ 21.3047, 21.5042, or 21.7051 by the later of the following dates.

(1) One year from the date on which the spouse's, surviving spouse's, or veteran's original period of eligibility ended; or

(2) One year from the date on which the spouse's, surviving spouse's, or veteran's physical or mental disability no longer prevented him or her from beginning or resuming a chosen program of education.

(Authority: 38 U.S.C. 3031(d), 3232(a), 3512)

(d) *Time limit for filing for an extension of eligibility due to suspension of program (38 U.S.C. chapter 35).* VA must receive a claim for an extended period of eligibility due to a suspension of an eligible child's program of education as provided in § 21.3043 by the later of the following dates.

(1) One year from the date on which the child's original period of eligibility ended; or

(2) One year from the date on which the condition that caused the suspension of the program of education ceased to exist.

(Authority: 38 U.S.C. 3512(c))

(e) *Extension for good cause.* (1) VA may extend for good cause a time limit within which a claimant or beneficiary is required to act to perfect a claim or challenge an adverse VA decision. VA may grant such an extension only when the following conditions are met:

(i) When a claimant or beneficiary requests an extension after expiration of a time limit, he or she must take the required action concurrently with or before the filing of that request; and

(ii) The claimant or beneficiary must show good cause as to why he or she could not take the required action during the original time period and could not have taken the required action sooner.

(2) Denials of time limit extensions are separately appealable issues.

(Authority: 38 U.S.C. 5101, 5113)

(f) *Computation of time limit.* (1) In computing the time limit for any action required of a claimant or beneficiary, including the filing of claims or evidence requested by VA, VA will exclude the first day of the specified period, and will include the last day. This rule is applicable in cases in which the time limit expires on a workday. When the time limit would expire on a Saturday, Sunday, or holiday, the VA will include the next succeeding day in the computation.

(2) The first day of the specified period referred to in paragraph (f)(1) of this section will be the date of the letter of notification to the claimant or beneficiary for purposes of computing time limits. As to appeals, see §§ 20.302 and 20.305 of this chapter.

(Authority: 38 U.S.C. 501(a))

Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

6. The authority citation for subpart C continues to read as follows:

Authority: 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

§ 21.3021 [Amended]

7. In § 21.3021, paragraph (m) is amended by removing “§ 21.4200”, and adding, in its place, “§§ 21.1029 and 21.4200”.

8. Section 21.3030 is revised to read as follows:

§ 21.3030 Claims.

The provisions of subpart B of this part apply with respect to submission of a claim for educational assistance under 38 U.S.C. chapter 35, VA actions upon receiving a claim, and time limits connected with claims.

(Authority: 38 U.S.C. 3513, 5101, 5102, 5103)

9. Sections 21.3031 and 21.3032 are removed.

Subpart D—Administration of Educational Assistance Programs

10. The authority citation for subpart D continues to read as follows:

Authority: 10 U.S.C. ch. 1606, 38 U.S.C. 501(a), chs. 30, 32, 34, 35, 36, unless otherwise noted.

11. In § 21.4131, the introductory text and paragraphs (a) and (d) are revised, to read as follows:

§ 21.4131 Commencing dates.

VA will determine the commencing date of an award or increased award of educational assistance under this section. When more than one paragraph in this section applies, VA will award educational assistance using the latest of the applicable commencing dates.

(a) *Entrance or reentrance including change of program or educational institution: individual eligible under 38 U.S.C. chapter 32.* When an eligible veteran or servicemember enters or reenters into training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) If the award is the first award of educational assistance for the program of education the veteran or servicemember is pursuing, the commencing date of the award of educational assistance is the latest of:

(i) The date the educational institution certifies under paragraph (b) or (c) of this section;

(ii) One year before the date of claim as determined by § 21.1029(b);

(iii) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later; or

(2) If the award is the second or subsequent award of educational assistance for the program of education

the veteran or servicemember is pursuing, the effective date of the award of educational assistance is the later of—

(i) The date the educational institution certifies under paragraph (b) or (c) of this section; or

(ii) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(Authority: 38 U.S.C. 3672, 5103, 5110(b), 5113)

* * * * *

(d) *Entrance or reentrance including change of program or educational institution: individual eligible under 38 U.S.C. chapter 35.* When a person eligible to receive educational assistance under 38 U.S.C. chapter 35 enters or reenters into training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) If the award is the first award of educational assistance for the program of education the eligible person is pursuing, the commencing date of the award of educational assistance is the latest of:

(i) The beginning date of eligibility as determined by § 21.3041(a) or (b) or by § 21.3046(a) or (b), whichever is applicable;

(ii) One year before the date of claim as determined by § 21.1029(b);

(iii) The date the educational institution certifies under paragraph (b) or (c) of this section;

(iv) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later; or

(2) If the award is the second or subsequent award of educational assistance for that program, the effective date of the award of educational assistance is later of—

(i) The date the educational institution certifies under paragraph (b) or (c) of this section; or

(ii) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(Authority: 38 U.S.C. 3014, 3023, 3034, 3672, 5103)

Subpart G—Post-Vietnam Era Veterans' Educational Assistance Under 38 U.S.C. Chapter 32

12. The authority citation for subpart G continues to read as follows:

Authority: 38 U.S.C. 501(a), ch. 32, unless otherwise noted.

13. In § 21.5030, the heading for the section and paragraph (c) introductory text, are revised; paragraphs (c)(1), (c)(2), and (c)(3) are redesignated as paragraphs (c)(2), (c)(3), and (c)(4), respectively; a new paragraph (c)(1) is added; and a newly redesignated paragraph (c)(3) is revised, to read as follows:

§ 21.5030 Applications, claims, and time limits.

* * * * *

(c) The provisions of the following sections shall apply to claims for educational assistance under 38 U.S.C. chapter 32:

(1) Section 21.1029—Definitions.

* * * * *

(3) Section 21.1031—VA responsibilities when a claim is filed.

* * * * *

14. In § 21.5130, paragraph (a) is amended by removing “dates”, and adding, in its place, “dates (except paragraph (d))”.

Subpart H—Educational Assistance Test Program

15. The authority citation for subpart H continues to read as follows:

Authority: 10 U.S.C. ch. 107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A, 42 U.S.C. 2000; sec. 901, Pub. L. 96-342, 94 Stat. 1111-1114, unless otherwise noted.

16. Section 21.5730 is revised to read as follows:

§ 21.5730 Applications, claims, and time limits.

The provisions of subpart B of this part apply with respect to claims for educational assistance under the educational program described in § 21.5701, VA actions upon receiving a claim, and time limits connected with claims.

(Authority: 10 U.S.C. 2141, 2149, 38 U.S.C. 5101, 5102, 5103)

§ 21.5732 [Removed]

17. Section 21.5732 is removed.

Subpart K—All Volunteer Force Educational Assistance Program (Montgomery GI Bill—Active Duty)

18. The authority citation for subpart K continues to read as follows:

Authority: 38 U.S.C. 501(a), chs. 30 and 36, unless otherwise noted.

19. In § 21.7020, the introductory text is revised, to read as follows:

§ 21.7020 Definitions.

For the purposes of regulations from § 21.7000 through § 21.7499 and the payment of basic educational assistance

and supplemental educational assistance under 38 U.S.C. chapter 30, the following definitions apply. (See also additional definitions in § 21.1029).

* * * * *

20. Section 21.7030 is revised to read as follows:

§ 21.7030 Applications, claims, and time limits.

The provisions of subpart B, of this part apply with respect to claims for educational assistance under 38 U.S.C. chapter 30, VA actions upon receiving a claim, and time limits connected with claims.

(Authority: 38 U.S.C. 3018B, 3034(a), 3471, 5101, 5102, 5103)

21. In § 21.7032, paragraphs (b), (c), (d), and (e) are removed; paragraph (f) is redesignated as paragraph (b); and the section heading and paragraph (a) are revised to read as follows:

§ 21.7032 Time limits for making elections.

(a) *Scope of this section.* The provisions of this section are applicable to certain elections to receive educational assistance under 38 U.S.C. ch. 30. For time limits governing formal and informal claims for educational assistance under 38 U.S.C. ch. 30, see § 21.1032.

(Authority: 38 U.S.C. 3018B)

* * * * *

§ 21.7051 [Amended]

22. In § 21.7051, paragraph (a)(1) is amended by removing “§ 21.7032(e) of this part” and adding, in its place, “§ 21.1032(c)”.

23. In § 21.7131, the introductory text is revised; paragraph (e)(1)(iii) is amended by removing “subdivision (ii)(B) of this subparagraph” and adding, in its place, “paragraph (e)(1)(ii)(B) of this section”; paragraph (d) is removed and reserved; paragraph (e)(2)(i) introductory text is removed; paragraphs (e)(2)(i)(A), (e)(2)(i)(B), and (e)(2)(i)(C) are redesignated as a new (e)(2)(i), (e)(2)(ii), and (e)(2)(iii), respectively; and paragraph (a) is revised to read as follows:

§ 21.7131 Commencing dates.

VA will determine the commencing date of an award or increased award of educational assistance under this section. When more than one paragraph in this section applies, VA will award educational assistance using the latest of the applicable commencing dates.

(a) *Entrance or reentrance including change of program or educational institution.* When an eligible veteran or servicemember enters or reenters into

training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) If the award is the first award of educational assistance for the program of education the veteran or servicemember is pursuing, the commencing date of the award of educational assistance is the latest of:

(i) The date the educational institution certifies under paragraph (b) or (c) of this section;

(ii) One year before the date of claim as determined by § 21.1029(b);

(iii) The effective date of the approval of the course, or one year before the date VA receives the approval notice whichever is later; or

(2) If the award is the second or subsequent award of educational assistance for the program of education the veteran or servicemember is pursuing, the effective date of the award of educational assistance is later of—

(i) The date the educational institution certifies under paragraph (b) or (c) of this section; or

(ii) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(Authority: 38 U.S.C. 3014, 3023, 3034, 3672, 5103, 5110(b), 5113)

* * * * *

Subpart L—Educational Assistance for Members of the Selected Reserve

24. The authority citation for subpart L continues to read as follows:

Authority: 10 U.S.C. ch. 1606; 38 U.S.C. 501, unless otherwise noted.

25. In § 21.7520, the introductory text is revised, to read as follows:

§ 21.7520 Definitions.

For the purposes of regulations from § 21.7500 through § 21.7999, governing the administration and payment of educational assistance under 10 U.S.C. chapter 1606, the Selected Reserve Educational Assistance Program, the following definitions apply. (See also additional definitions in § 21.1029).

* * * * *

26. Section 21.7530 is revised to read as follows:

§ 21.7530 Applications, claims, and time limits.

The provisions of subpart B of this part apply with respect to claims for educational assistance under 10 U.S.C. chapter 1606, VA actions upon

receiving a claim, and time limits connected with claims.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3472)

§ 21.7532 [Removed]

27. Section 21.7532 is removed.

28. In § 21.7631, paragraph (d) is removed; paragraphs (e), (f), (g) and (h) are redesignated as paragraphs (d), (e), (f), and (g) respectively; and the introductory text and paragraph (a) are revised, to read as follows:

§ 21.7631 Commencing dates.

VA will determine the commencing date of an award or increased award of educational assistance under this section. When more than one paragraph in this section applies, VA will award educational assistance using the latest of the applicable commencing dates.

(a) *Entrance or reentrance including change of program or educational institution.* When an eligible reservist enters or reenters into training (including a reentrance following a change of program or educational institution), the commencing date of his or her award of educational assistance will be determined as follows:

(1) If the award is the first award of educational assistance for the program of education the reservist is pursuing, the commencing date of the award of educational assistance is the latest of:

(i) The date the educational institution certifies under paragraph (b) or (c) of this section;

(ii) One year before the date of claim as determined by § 21.1029(b);

(iii) The effective date of the approval of the course, or one year before the date VA receives the approval notice whichever is later; or

(2) If the award is the second or subsequent award of educational assistance for the program of education the reservist is pursuing, the effective date of the award of educational assistance is the later of—

(i) The date the educational institution certifies under paragraph (b) or (c) of this section; or

(ii) The effective date of the approval of the course, or one year before the date VA receives the approval notice, whichever is later.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3672, 5103)

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