

Department of Veterans Affairs

§ 21.1032

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

(Authority: 38 U.S.C. 301)
[64 FR 23770, May 4, 1999]

§ 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))

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0596.)

[64 FR 23771, May 4, 1999]

§ 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)
[64 FR 23771, May 4, 1999]

§ 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

§ 21.3001

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))

[64 FR 23771, May 4, 1999]

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

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

GENERAL

§ 21.3001 Delegation of authority.

Except as otherwise provided, authority is delegated to the Under Secretary for Benefits and to supervisory

38 CFR Ch. I (7–1–03 Edition)

or administrative personnel within the jurisdiction of the Education Service, Veterans Benefits Administration, designated by him or her to make findings and decisions under 38 U.S.C. chapter 35 and the applicable regulations, precedents and instructions, as to the program authorized by this subpart.

(Authority: 38 U.S.C. 512(a))

[61 FR 26108, May 24, 1996]

§ 21.3002 Administration of Survivors' and Dependents' Educational Assistance Program.

Subpart D of this part applies to the Survivors' and Dependents' Educational Assistance Program, unless the provisions of a section in that subpart are explicitly limited to one or more of the other educational assistance programs VA administers.

(Authority: 38 U.S.C. 501, 3501–3566)

[61 FR 26108, May 24, 1996]

§ 21.3020 Educational assistance.

The program of educational assistance under 38 U.S.C. Chapter 35 captioned Survivors' and Dependents' Educational Assistance, may be referred to as Dependents' Educational Assistance.

(Authority: Sec. 309, 90 Stat. 2383)

(a) *General.* A program of education or special restorative training may be authorized for an eligible person who meets the definition contained in § 21.3021.

(b) *45 months limitation.* Educational assistance may not exceed a period of 45 months, or the equivalent in part-time training, unless it is determined that a longer period is required for special restorative training under the circumstances outlined in § 21.3300(c) or except as specified in § 21.3044(c).

(Authority: 38 U.S.C. 3511(a), 3533, 3541(b))

(c) *Courses in foreign countries.* A course to be pursued at a school not located in a State or in the Philippines may not be approved except under the circumstances outlined in § 21.4260.

[30 FR 15631, Dec. 18, 1965, as amended at 31 FR 6773, May 6, 1966; 34 FR 841, Jan. 18, 1969; 38 FR 14931, June 7, 1973; 43 FR 35289, Aug. 9, 1978]