

## Department of Veterans Affairs

## §21.7139

job training or cooperative training it may not exceed—

(Authority: 38 U.S.C. 3032(d)) (Jan. 1, 1989)

(i) \$300 per month for full-time training.

(ii) \$225 per month for three-quarter-time training,

(iii) \$150 per month for one-half-time training and for training which is less than one-half-time, but more than one-quarter-time, or

(iv) \$75 per month for one-quarter-time training or less.

(2) For an individual pursuing an apprenticeship or other on-job training it may not exceed—

(i) \$225 per month for the first six months of training,

(ii) \$165 per month for the second six months of training, and

(iii) \$105 per month for the remaining months of training.

(Authority: 38 U.S.C. 3022(b), 3032(c); Pub. L. 99-576)

(3) For an individual pursuing cooperative training, it may not exceed \$240 per month.

(Authority: 38 U.S.C. 3022(b), 3032(d)) (Jan. 1, 1989)

(c) *Rates of supplemental educational assistance for less than one-half-time training and for servicemembers.* The monthly rate of supplemental educational assistance payable to a veteran who is training less than half-time or to a servicemember is determined as follows:

(1) The monthly rate of the veteran's or servicemember's basic educational assistance is determined as provided in §§21.7136(d), and 21.7137 (b), (c) and (d) of this part.

(2) If the monthly rate of basic educational assistance equals or is greater than the monthly rate of the cost of the course, no supplemental educational assistance is payable.

(3) If the monthly rate of basic educational assistance is less than monthly rate of the cost of the course, the monthly rate of supplemental educational assistance is the lesser of—

(i) The monthly rate provided in paragraph (a) of this section, plus the monthly rate provided in paragraph (b) of this section, if appropriate, or

(ii) The difference between the monthly rate of the cost of the course and the monthly rate of the veteran's or servicemember's basic educational assistance.

(Authority: 38 U.S.C. 3022, 3032; Pub. L. 98-525)

[53 FR 1757, Jan. 22, 1988, as amended at 55 FR 28388, July 11, 1990; 56 FR 20136, May 2, 1991]

### §21.7139 Conditions which result in reduced rates or no payment.

The monthly rates established in §§21.7136, 21.7137 and 21.7138 shall be reduced as stated in this section whenever the circumstances described in this section arise.

(a) *Withdrawals and nonpunitive grades.* Withdrawal from a course or receipt of a nonpunitive grade affects payments to a veteran or servicemember. VA will not pay benefits to a veteran or servicemember for pursuit of a course from which the veteran or servicemember withdraws or receives a nonpunitive grade which is not used in computing requirements for graduation unless the provisions of this paragraph are met.

(1) The veteran withdraws because he or she is ordered to active duty; or

(2) All of the following exist.

(i) There are mitigating circumstances; and

(ii) The veteran or servicemember submits a description of the mitigating circumstances in writing to VA within one year from the date VA notifies the veteran or servicemember that he or she must submit a description of the mitigating circumstances, or at a later date if the veteran or servicemember is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances; and

(iii) The veteran or servicemember submits evidence supporting the existence of mitigating circumstances within one year of the date that evidence is requested by VA, or at a later date if the veteran or servicemember is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the

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evidence supporting the existence of mitigating circumstances.

(Authority: 38 U.S.C. 3034, 3680(a); Pub. L. 98-525, Pub. L. 102-127)(Aug. 1, 1990)

(b) *No educational assistance for some incarcerated servicemembers.* As with servicemembers who are not incarcerated, VA will not pay educational assistance to an incarcerated servicemember enrolled in a course for which there are no tuition and fees. Furthermore, VA will not pay educational assistance to a servicemember who—

(1) Is enrolled in a course where his or her tuition and fees are being paid for by a Federal program (other than one administered by VA) or by a State or local program, and

(2) Is incarcerated in a Federal, State or local prison or jail for conviction of a felony, and has incurred no expenses for supplies, books or equipment.

(Authority: 38 U.S.C. 3034, 3482(g))

(c) *No educational assistance for some incarcerated veterans.* The VA will pay no educational assistance to a veteran who—

(1) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(2) Is enrolled in a course—

(i) For which there are no tuition and fees, or

(ii) For which tuition and fees are being paid by a Federal program (other than one administered by the VA) or by a State or local program, and

(3) Is incurring no charge for the books, supplies and equipment necessary for the course.

(Authority: 38 U.S.C. 3034, 3482(g))

(d) *Reduced educational assistance for some incarcerated servicemembers.*

(1) VA will pay reduced educational assistance to a servicemember who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course where his or her tuition and fees are being paid for entirely or partly by a Federal program (other than one administered by VA) or by a State or local program, and

(iii) If all the tuition and fees are paid for by such a program, must buy books, supplies or equipment for the course.

(2) The monthly rate of educational assistance payable to a servicemember described in this paragraph shall equal the lowest of the following:

(i) The monthly rate of the portion of the tuition and fees that are not paid by a Federal program (other than one administered by VA) or a State or local program plus the monthly rate of any charges to the servicemember for the cost of necessary supplies, books and equipment;

(ii) The monthly rate of the portion of the tuition and fees paid by the servicemember plus the monthly rate of the portion of tuition and fees paid by the Federal, State or local program; or

(iii) The monthly rate found in §21.7136(d) or §21.7137(c), as appropriate.

(Authority: 38 U.S.C. 3034, 3482(g))

(e) *Reduced educational assistance for some incarcerated veterans.* (1) VA will pay reduced educational assistance to a veteran who—

(i) Is incarcerated in a Federal, State or local penal institution for conviction of a felony, and

(ii) Is enrolled in a course for which the veteran pays some (but not all) of the charges for tuition and fees, or for which a Federal program (other than one administered by VA) or a State or local program pays all the charges for tuition and fees, but which requires the veteran to pay for books, supplies and equipment.

(2) The monthly rate of educational assistance payable to such a veteran who is pursuing the course on a one-half time or greater basis shall be the lesser of the following:

(i) The monthly rate of the portion of the tuition and fees that are not paid by a Federal program (other than one administered by VA) or a State or local program plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(ii) If the veteran has remaining entitlement under 38 U.S.C. chapter 34, monthly rate stated in §21.7137(a) for a

veteran with no dependents and the increase provided in § 21.7137(d) or (e), if appropriate, plus the monthly rate stated in § 21.7138 (a) and (b) for a veteran if the veteran is entitled to supplemental educational assistance, or

(iii) If the veteran has no entitlement under 38 U.S.C. chapter 34, the monthly rate stated in § 21.7136 (a) or (b), as appropriate, and the increase provided in § 21.7136(d), (f), or (g), if appropriate, plus the monthly rate stated in § 21.7138 (a) and (b) for a veteran if the veteran is entitled to supplemental educational assistance.

(3) The monthly rate of educational assistance payable to such a veteran who is pursuing the course on a less than one-half time basis or on a one-quarter time basis shall be the lowest of the following:

(i) The monthly rate of the tuition and fees charged for the course.

(ii) The monthly rate of the tuition and fees which the veteran must pay plus the monthly rate of the charge to the veteran for the cost of necessary supplies, books and equipment, or

(iii) The monthly rate determined by § 21.7136(d) or § 21.7137(b), as appropriate, plus the monthly rate stated in § 21.7138(c) if the veteran is entitled to supplemental educational assistance.

(Authority: 38 U.S.C. 3034, 3482(g))

(f) *Payment for correspondence courses.* The amount of payment due a veteran or servicemember who is pursuing a correspondence course or the correspondence portion of a correspondence-residence course is 55 percent of the established charge which the educational institution requires non-veterans to pay for the lessons that the veteran or servicemember has had completed and serviced and for which payment is due.

(Authority: 38 U.S.C. 3034, 3686(a)(2))

(g) *Failure to work sufficient hours of apprenticeship and other on-job training.*

(1) For any month in which an eligible veteran pursuing an apprenticeship or other on-job training program fails to complete 120 hours of training, VA will reduce proportionally—

(i) The rates specified in §§ 21.7136(b)(2), (c)(2), (d)(3), and (d)(4), and 21.7137(a)(2) and (d)(2); and

(ii) Any increase (“kicker”) set by the Secretary of the military department concerned as described in §§ 21.7136(g) and 21.7137(e).

(2) In making the computations required by paragraph (g)(1) of this section, VA will round the number of hours worked to the nearest multiple of eight.

(3) For the purpose of this paragraph “hours worked” include only—

(i) The training hours the veteran worked, and

(ii) All hours of the veteran’s related training which occurred during the standard workweek and for which the veteran received wages. (See § 21.4270(c), footnote 5, as to the requirements for full-time training.)

(Authority: 38 U.S.C. 3034, 3687(b)(3))

[53 FR 1757, Jan. 22, 1988, as amended at 55 FR 28388, July 11, 1990; 56 FR 11672, Mar. 20, 1991; 57 FR 15025, Apr. 24, 1992; 58 FR 26242, May 3, 1993; 60 FR 32272, June 21, 1995; 62 FR 55520, Oct. 27, 1997]

**§ 21.7140 Certifications and release of payments.**

(a) *Advance payments and lump-sum payments.* VA will apply the provisions of § 21.4138(a) and (b) in making advance payments and lump-sum payments to veterans and servicemembers.

(Authority: 38 U.S.C. 3034 and 3680)

(b) *Accelerated payments.* VA will apply the provisions of §§ 21.7151(a), (c), and 21.7154(d) in making accelerated payments.

(c) *Other payments.* An individual must be pursuing a program of education in order to receive payments. To ensure that this is the case the provisions of this paragraph must be met.

(1) VA will pay educational assistance to a veteran or servicemember (other than one pursuing a program of apprenticeship or other on-job training, a correspondence course, one who qualifies for advance payment, one who qualifies for an accelerated payment, or one who qualifies for a lump sum payment) only after—

(i) The educational institution has certified his or her enrollment as provided in § 21.7152; and