

Department of Veterans Affairs

§ 21.5050

under § 21.5030(c)(3) of this part occurs after November 17, 1988.

(Authority: 38 U.S.C. 105; Pub. L. 100-689)

(3) Evidence must be presented which clearly establishes that the veteran's disability made pursuit of his or her program medically infeasible during the veteran's original period of eligibility as determined by § 21.5041 of this part. A period of disability following the end of the original disability period will not be a basis for extension.

(4) VA will not consider a veteran who is disabled for a period of 30 days or less as having been prevented from enrolling or reenrolling in the chosen program of education or was forced to discontinue attendance, because of the short disability.

(Authority: 38 U.S.C. 3232, Pub. L. 99-576)

(d) *Commencing date.* The veteran shall elect the commencing date of an extended period of eligibility. The date chosen—

(1) Must be on or after the original date of expiration of eligibility as determined by § 21.5041 of this part, and

(2) Must be on or before the 90th day following the date on which the veteran's application for an extension was approved by VA, if the veteran is training during the extended period of eligibility in a course not organized on a term, quarter or semester basis, or

(3) Must be on or before the first day of the first ordinary term, quarter or semester following the 90th day after the veteran's application for an extension was approved by VA if the veteran is training during the extended period of eligibility in a course organized on a term, quarter or semester basis.

(Authority: 38 U.S.C. 3232; Pub. L. 99-576)

(4) For a veteran whose entitlement to an extended period of eligibility is dependent upon the disabling effects of chronic alcoholism, may not begin before November 18, 1988.

(Authority: 38 U.S.C. 105, 3232; Pub. L. 99-576, Pub. L. 100-689)

(e) *Determining the length of extended periods of eligibility.* A veteran's extended period of eligibility shall be

based upon the qualifying period of disability, and determined as follows:

(1) If the veteran is in training in a course organized on a term, quarter or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the veteran's original delimiting period that his or her training became medically infeasible to the earliest of the following dates:

(i) The commencing date of the ordinary term, quarter or semester following the day the veteran's training became medically feasible,

(ii) The veteran's delimiting date as determined by § 21.5041 of this part, or

(iii) The date the veteran resumed training.

(2) If the veteran is training in a course not organized on a term, quarter or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the veteran's original delimiting period that his or her training became medically infeasible to the earlier of the following dates:

(i) The date the veteran's training became medically feasible, or

(ii) The veteran's delimiting date as determined by § 21.5041 of this part.

(Authority: 38 U.S.C. 3232; Pub. L. 99-576)

(f) *Discontinuance.* If the veteran is pursuing a course on the date an extended period of eligibility expires (as determined under this section), VA will discontinue the educational assistance allowance effective the day before the end of the extended period of eligibility.

(Authority: 38 U.S.C. 3232; Pub. L. 99-576)

[53 FR 34496, Sept. 7, 1988, as amended at 55 FR 31582, Aug. 3, 1990]

PARTICIPATION

§ 21.5050 Application requirements for participation.

(a) An individual, who is otherwise eligible to become a participant, must apply to the Service Department under which he or she serves upon forms prescribed by the Service Department and/or Secretary of Defense.

§ 21.5052

38 CFR Ch. I (7-1-04 Edition)

(b) No application to participate may be made before entry upon active duty.

(c) Each application must be submitted in time to permit the Service Department to make the required deduction from the individual's military pay for at least 1 month before the applicant's discharge or release from active duty.

(Authority: 38 U.S.C. 3221)

§ 21.5052 Contribution requirements.

(a) *Minimum period of participation.* Each individual who agrees to participate must do so for a minimum period of 12 consecutive months, unless the participant:

- (1) Is allowed to disenroll for hardship reasons;
- (2) Is permitted to suspend participation for hardship reasons;
- (3) Is discharged or released from active duty;
- (4) Otherwise ceases to be legally eligible to participate; or
- (5) Elects to make a lump-sum contribution which, when taken together with his or her other contributions, equals the equivalent of at least 12 months' participation.

(Authority: 38 U.S.C. 3221, 3222)

(b) *Amount of monthly contribution.* The individual shall specify the amount of his or her contribution to the fund.

(1) The contribution shall be at least \$25 per month but not more than \$100 per month.

(2) The contribution shall be evenly divided by five. See § 21.5292 for contributions made during the 1-year pilot program.

(c) *Amount of total contribution.* An individual may contribute for the number of months required to reach a total contribution of \$2,700.

(d) *Changing the monthly contribution.* An individual may increase or decrease the amount of the monthly contribution, but may not do so more than once a month.

(e) *Prohibition against contributing.* An individual may not make contributions to the fund after the date of his or her discharge. The VA does not consider the return of an unnegotiated refund check to be a contribution. A person

who returns a refund check remains continuously eligible for benefits.

(Authority: 38 U.S.C. 3222)

(f) *Lump-sum contribution.* After September 30, 1980 an individual may make a lump-sum contribution or contributions in place of or in addition to monthly contributions.

(1) A lump-sum contribution:

- (i) Must be evenly divisible by five,
- (ii) Must, when taken together with any monthly contributions the participant may have made or may agree to make, equal or exceed 12 months' participation, and
- (iii) Must not exceed \$2,700 when taken together with any monthly contributions the participant may have made or may agree to make.

(2) The Department of Veterans Affairs will consider the lump-sum contributions to have been made by monthly deductions from the participant's military pay at the rate of \$100 per month unless the participant specifies a different rate which must be

- (i) No lower than \$25 per month,
- (ii) No higher than \$100 per month, and
- (iii) Evenly divisible by five.

(3) If otherwise eligible to make contributions, a participant:

(i) May make a lump-sum contribution to cover any period of his or her active duty. This may entail a retroactive period, including one which—

(A) Begins after December 31, 1976, and before October 1, 1980, or

(B) Although made after October 27, 1986, includes all or part of the period beginning on July 1, 1985, and ending on October 27, 1986.

(Authority: Pub. L. 99-576, sec. 309(c))

(ii) May make a lump-sum contribution which has the effect of increasing the amount of a monthly contribution the participant made previously, but the payment cannot have the effect of increasing the monthly contribution to an amount greater than \$100;

(iii) May make a lump-sum payment to cover a period for which he or she previously obtained a refund;

(iv) May not make a lump-sum payment to cover a period during which the participant was not on active duty or will not be on active duty.