

Department of Veterans Affairs

§21.5740

(2) Is pursuing his or her program of education.

(Authority: 10 U.S.C. 2142)

§21.5725 Obtaining benefits.

(a) *Actions required of the individual.* In order to obtain benefits under the educational assistance and subsistence allowance program, an individual must—

- (1) File a claim for benefits with VA, and
- (2) Ensure that the accredited institution certifies his or her enrollment to VA.

(Authority: 10 U.S.C. 2149)

(b) *VA action upon receipt of a claim.* Upon receipt of a claim from an individual VA shall—

- (1) Determine if the individual, or the veteran upon whose service the claim is based, has or had basic eligibility;
- (2) Determine that the eligibility period has not expired;
- (3) Determine that the individual has remaining entitlement;
- (4) Verify that the individual is attending an accredited institution;
- (5) Determine whether payments may be made for the course, and
- (6) Make appropriate payments of educational assistance and subsistence allowance.

(Authority: 10 U.S.C. 2142-2149)

CLAIMS AND APPLICATIONS

§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)

[64 FR 23772, May 4, 1999]

ELIGIBILITY AND ENTITLEMENT

§21.5740 Eligibility.

(a) *Establishing eligibility.* To establish eligibility to educational assistance under 10 U.S.C. Chapter 107 an individual must—

(1) Enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force or Marine Corps after September 30, 1980 and before October 1, 1981 specifically for benefits under the provisions of 10 U.S.C. 2141 through 2149, Pub. L. 96-342,

(2) Have graduated from a secondary school,

(3) Meet other requirements as the Secretary of Defense may consider appropriate for the purpose of this chapter and the needs of the Armed Forces,

(4) Meet the service requirements stated in paragraph (b) of this section, and

(5) If a veteran, have been discharged under honorable conditions.

(Authority: 10 U.S.C. 2142(b), 38 U.S.C. 5303A)

(b) *Service Requirements.* (1) The individual must complete 24 continuous months of active duty of the enlistment or reenlistment described in paragraph (a)(1) of this section; or

(2) If the enlistment described in paragraph (a) of this section is the individual's initial enlistment for service on active duty, the individual must—

(i) Complete 24 continuous months of active duty, or

(ii) Be discharged or released from active duty—

(A) Under 10 U.S.C. 1173 (hardship discharge), or

(B) Under 10 U.S.C. 1171 (early-out discharge), or

(C) For a disability incurred in or aggravated in line of duty; or

(iii) Be found by the VA to have a service-connected disability which gives the individual basic entitlement to disability compensation as described in §3.4(b) of this title. Once the VA makes this finding, the individual's eligibility will continue notwithstanding that the disability becomes non-compensable.

(3) In computing time served for the purpose of this paragraph, VA will exclude any period during which the individual is not entitled to credit for service as specified in §3.15 of this title.