

**§21.5744**

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

transfers entitlement is entitled to educational assistance and subsistence allowance in the same manner and at the same rate as the person from whom entitlement was transferred.

(2) The total entitlement transferred to the veteran's or servicemember's spouse and children shall not exceed the veteran's or servicemember's remaining entitlement. The veteran or servicemember may transfer entitlement to only one person at a time.

(Authority: 10 U.S.C. 2147)

(d) *Effect of transfer upon educational assistance and subsistence allowance: Veteran or servicemember deceased.* (1) A person to whom entitlement is transferred after the death of a veteran or servicemember is entitled to payment of educational assistance and subsistence allowance in the manner as the veteran or servicemember. The rate of educational assistance and subsistence allowance will be as stated in §§21.5820 and 21.5822.

(2) If entitlement is transferred to more than one person following the death of a veteran or servicemember, the total remaining entitlement to educational assistance and subsistence allowance of all is equal to the total entitlement of the person on whose service entitlement is based.

(Authority: 10 U.S.C. 2147)

(e) *Revocation of a transfer of entitlement.* A surviving spouse who has transferred entitlement to a dependent child may revoke the transfer by notifying VA in writing. A veteran or servicemember who has transferred entitlement may revoke that transfer by notifying VA in writing. The veteran, servicemember or surviving spouse may choose the effective date of the revocation subject to the following conditions:

(1) If the person to whom entitlement is transferred never enters training, the effective date of the revocation may be any date chosen by the veteran, servicemember or surviving spouse who transferred the entitlement.

(2) If the person to whom entitlement is transferred is not in training on the date the VA processes the revocation, but he or she has trained before that date, the effective date of the revoca-

tion may be no earlier than the last date that person was in training for which educational assistance and subsistence allowance were payable.

(3) If the person to whom entitlement is transferred is in training (for which educational assistance and subsistence allowance are payable) on the date the VA processes revocation, the effective date of the revocation may be no earlier than—

(i) The last date of the term, quarter, or semester at the accredited institution where that person is enrolled, or

(ii) If the accredited institution is not organized on a term, quarter or semester basis, the last date of the course or the last date of the school year, whichever is earlier.

(Authority: 10 U.S.C. 2147)

[51 FR 27026, July 29, 1986, as amended at 53 FR 1779, Jan. 22, 1988]

**§21.5744 Charges against entitlement.**

(a) *Charges against entitlement to educational assistance.* (1) Except as provided in paragraph (a)(2) of this section VA will make a charge against an individual's entitlement to educational assistance of—

(i) One month for each month of a term, quarter or semester—

(A) For which the servicemember receives educational assistance, and

(B) During which the servicemember is a full-time student; and

(ii) One-half month for each month of a term, quarter or semester—

(A) For which the individual receives educational assistance, and

(B) During which the servicemember is a part-time student.

(2) VA will prorate the entitlement charge if the individual—

(i) Is a student for only part of a month, or

(ii) The individual is a full-time student for part of a month and a part-time student for part of the same month.

(3) The charge against entitlement to educational assistance should always equal the charge against entitlement to subsistence allowance for the same enrollment period.

(b) *Charges against entitlement to subsistence allowance.* (1) For each individual, except servicemembers, VA will

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make a charge against an individual's entitlement to subsistence allowance of—

(i) One month for each month the individual is a full-time student receiving subsistence allowance; and

(ii) One-half for each month the individual is a part-time student receiving subsistence allowance.

(2) Even though a servicemember may not receive subsistence allowance, VA will make a charge against a servicemember's entitlement to subsistence allowance of—

(i) One month for each month of a term, quarter or semester—

(A) For which the servicemember received educational assistance and

(B) During which the servicemember is a full-time student; and

(ii) One-half month for each month of a term, quarter or semester—

(A) For which the servicemember received educational assistance, and

(B) During which the individual is a part-time student.

(3) VA will prorate the entitlement charge as stated in paragraph (b) (1) or (2) of this section during any month for which a servicemember receives educational assistance or for which the individual receives subsistence allowance—

(i) For less than a full month, or

(ii) At the full-time rate for part of a month and at the part-time rate for part of the same month.

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

### §21.5745 Period of entitlement.

(a) *Veterans.* The period of entitlement of a veteran expires on the first day following ten years from the date the veteran retires or is discharged or otherwise separated from active duty.

(Authority: 10 U.S.C. 2148; Pub. L. 96-342)

(b) *Spouses, surviving spouses, and dependent children.* If the veteran's or servicemember's entitlement is transferred, the period of entitlement of the spouse, surviving spouse, or dependent child expires 10 years from—

(1) The date the veteran retires, is discharged or otherwise separated from active duty, or

(2) If the servicemember dies on active duty, the date of the servicemember's death.

(Authority: 10 U.S.C. 2148)

## COURSES

### §21.5800 Courses.

(a) *Courses permitted.* An individual may receive educational assistance and subsistence allowance only while receiving instruction in a postsecondary course offered at any institution in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam and the U.S. Virgin Islands) that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

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

(b) *Courses precluded.* An individual shall receive neither educational assistance nor subsistence allowance while pursuing any of the following courses:

(1) A course offered at the secondary level or below;

(2) A course offered by an institution located outside the United States (except in Guam, the Commonwealth of Puerto Rico and the U.S. Virgin Islands);

(3) A course offered by a nonaccredited institution; and

(4) Courses which do not require the student to receive instruction at the institution. These include—

(i) Correspondence courses,

(ii) Combination correspondence—residence courses, and

(iii) Courses offered through independent study.

(Authority: 10 U.S.C. 2143)

## CERTIFICATIONS

### §21.5810 Certifications of enrollment.

(a) *Enrollment certifications.* An individual who wishes to receive educational assistance and subsistence allowance shall ensure that the accredited institution he or she is attending