

Office of the Secretary of Defense

§ 48.601

in § 48.504(b), the department concerned shall require proof from the institution at least semiannually that the child is pursuing a full-time course of training as prescribed. For the purpose of proving eligibility, a child is considered to be pursuing a full-time course of study or training during an interval between school periods that does not exceed 150 days if he has demonstrated to the satisfaction of the department concerned that he has a bona fide intention of commencing, resuming, or continuing to pursue a full-time course of study or training in a recognized educational institution immediately after that interval.

§ 48.506 Recovery of erroneous annuity payments.

(a) The Secretary of the Department concerned is empowered to use any means provided by law to recover amounts of annuities erroneously paid to any individual under the Plan. He may authorize such recovery by adjustment in subsequent payments to which the individual is entitled.

(b) There need be no recovery when in the judgment of the Secretary of the Department concerned and the Comptroller General of the United States, the individual to whom the erroneous payment was made is without fault and recovery would be contrary to the purpose of the Plan or would be against equity and good conscience.

§ 48.507 Restriction on participation.

(a) If a person who has made an election under the Plan retires with a physical disability before the completion of 19 years of service and then dies in retirement, his widow and eligible children can receive monthly survivor annuities only if they are not eligible for Dependency and Indemnity Compensation payments from the Veterans Administration. If either the widow or children are eligible for dependency and indemnity compensation payments, then payment of annuities under the Plan may not be made to any member of the family. If the retired member's death was not service connected and his widow or children are not eligible for payments from the Veterans Administration, they may re-

ceive the provided annuity payments under the Plan.

(b) If the beneficiaries on whose behalf the election was made are restricted as in paragraph (a) of this section, from receiving annuities, the amounts withheld from the elector's retired pay as a result of the election will be refunded to the beneficiaries, less the amount of any annuity paid, and without interest.

(c) Upon notification of the death of the member in such a case, the department concerned will take the following actions:

(1) Notify the Central Office of the Veterans Administration of the death of the member and request that the department concerned be advised if an award is made under chapter 11 or 13, title 38 U.S. Code.

(2) Request the Central Office of the Veterans Administration to forward to the eligible widow and/or children an application form for survivor benefits under chapter 11 or 13, title 38 U.S. Code, with instructions for completion and submission.

§ 48.508 Certain 100 percent disability retirement.

An election filed on or after August 13, 1968 is not effective if the member dies within 30 days following retirement from a disability of 100 per centum (under the standard schedule of rating disabilities in use by the Veterans Administration) for which he was retired under chapter 61, title 10 U.S. Code, unless—

(a) Such disability was the result of injury or disease received in line of duty as a direct result of armed conflict, or

(b) His widow or children are not entitled to dependency and indemnity compensation under chapter 13, title 38 U.S. Code.

Subpart F—Miscellaneous

§ 48.601 Annual report.

Information and data for the preparation of the annual report of the Board of Actuaries will be compiled by the Office of the Secretary of Defense after promulgation of appropriate instructions to each of the uniformed services.

§ 48.602

These instructions will be in consonance with Executive Order 10499 directing the Secretary of Defense to administer the provisions of the law.

§ 48.602 Organization.

(a) The Joint Board for the Retired Serviceman's Family Protection Plan shall consist of a principal and alternate member for each of the uniformed services appointed by the Department Secretary concerned. Alternate members will be authorized to act in the absence of the principal. The Board shall meet on call of the Chairman. A quorum shall consist of representatives of at least four of the participating services.

(b) The Board shall establish procedures for the orderly conduct of business to be approved by the Assistant Secretary of Defense (Manpower and Reserve Affairs).

(c) The duties of the Board will include but not be limited to the following:

(1) Making recommendations to the Secretary of Defense for:

(i) Changes to the Executive order delegating to him functions conferred on the President by law,

(ii) Changes to these regulations,

(iii) Changes to the law, and

(iv) Measures to insure uniform operating policies.

(2) Promulgating tables of annuity costs as prescribed by the Board of Actuaries.

(3) Promulgating cost of term insurance as required in § 48.405.

(d) The Chairmanship of the Joint Board will be designated by the Assistant Secretary of Defense (Manpower and Reserve Affairs).

§ 48.603 Correction of administrative deficiencies.

(a) The Secretary of the Department concerned may correct any election or any change or revocation of an election when he considers it necessary to correct an administrative error. Information on such corrections shall be compiled by each department for inclusion in the report prescribed by § 48.601.

(b) Except when procured by fraud, a correction under the section is final and conclusive on all officers of the United States.

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(c) Information on all corrections to elections under this Plan which are made under title 10, section 1552, United States Code, shall be compiled and this information forwarded to the Board of Actuaries for an actuarial analysis.

§ 48.604 Transition and protective clauses.

(a) A retired member who is participating in the Plan without inclusion of former option 4, which provided for restoration of retired pay when no eligible beneficiary remained in his election, may before September 1, 1969, elect to have that option included in his election. The election to include such option 4 becomes effective on the first day of the month following the month in which that election was made. The retired member must on or before the effective date agree to pay to the Treasury both the total additional amount to cover the option had it been effective when he retired, and the interest which would have accrued on the additional amount up to the effective date of the new option 4. No such additional amount (except interest) shall accrue for months after the first month for which the individual had no eligible beneficiary. However, if undue hardship or financial burden would result, payments may be made in from 2 to 12 monthly installments when the monthly amount involved is \$25 or less, or in from 2 to 36 installments when the monthly amounts involved exceed \$25. No amounts by which a member's retired pay was reduced may be refunded to, or credited on behalf of, the retired member by virtue of an application made by him under this section. A retired member who does not make the additional election provided under this section within the time limits will not be allowed to reduce an annuity or withdraw from participation in the Plan as provided by § 48.406.

(b) Members who have elected and are not yet retired will automatically participate under the provisions of § 48.201.

(c) Elections in effect on August 13, 1968, will remain under the cost tables applicable on the date of the member's retirement.