

## Department of Veterans Affairs

## § 3.27

spouse shall be counted in determining the monthly rate of DIC.

(c) *Two parents not living together.* The rate computation method in this paragraph applies to:

(1) Two parents who are not living together, or

(2) An unmarried parent when both parents are living and the other parent has remarried.

The monthly rate of DIC paid to such parent shall be the rate specified in 38 U.S.C. 1315(c)(1), as increased from time to time under 38 U.S.C. 5312, reduced by an amount no greater than \$.08 for each dollar of such parent's countable annual income in excess of \$800, except that no payments of DIC may be made under this paragraph if such parent's countable annual income exceeds the amount specified in 38 U.S.C. 1315(c)(3), as increased from time to time under 38 U.S.C. 5312, and no payment of DIC to a parent under this paragraph may be less than \$5 monthly. Each time there is a rate increase under 38 U.S.C. 5312, the amount of the reduction under this paragraph shall be recomputed to provide, as nearly as possible, for an equitable distribution of the rate increase. The results of this computation method shall be published in schedular format in the "Notices" section of the FEDERAL REGISTER as provided in paragraph (f) of this section.

(d) *Two parents living together or remarried parents living with spouse.* The rate computation method in this paragraph applies to each parent living with another parent and to each remarried parent when both parents are alive. The monthly rate of DIC paid to such parents shall be the rate specified in 38 U.S.C. 1315(d)(1), as increased from time to time under 38 U.S.C. 5312, reduced to an amount no greater than \$.08 for each dollar of such parent's and spouse's combined countable annual income in excess of \$1,000 except that no payments of DIC to a parent under this paragraph may be less than \$5 monthly. Each time there is a rate increase under 38 U.S.C. 5312, the amount of the reduction under this paragraph shall be recomputed to provide, as nearly as possible, for an equitable distribution of the rate increase. The results of this computation method shall be published

in schedular format in the "Notices" section of the FEDERAL REGISTER as provided in paragraph (f) of this section.

(e) *Aid and attendance.* The monthly rate of DIC payable to a parent under this section shall be increased by the amount specified in 38 U.S.C. 1315(g), as increased from time to time under 38 U.S.C. 5312, if such parent is:

(1) A patient in a nursing home, or

(2) Helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(f) *Rate publication.* Each time there is an increase under 38 U.S.C. 5312, the actual rates will be published in the "Notices" section of the FEDERAL REGISTER.

(Authority: 38 U.S.C. 501)

[52 FR 34907, Sept. 14, 1987, as amended at 61 FR 20727, May 8, 1996]

### § 3.26 Section 306 and old-law pension annual income limitations.

(a) The annual income limitations for section 306 pension shall be the amounts specified in section 306(a)(2)(A) of Pub. L. 95-588, as increased from time to time under section 306(a)(3) of Pub. L. 95-588.

(b) If a beneficiary under section 306 pension is in need of aid and attendance, the annual income limitation under paragraph (a) of this section shall be increased in accordance with 38 U.S.C. 1521(d), as in effect on December 31, 1978.

(c) The annual income limitations for old-law pension shall be the amounts specified in section 306(b)(3) of Pub. L. 95-588, as increased from time to time under section 306(b)(4) of Pub. L. 95-588.

(d) Each time there is an increase under section 306 (a)(3) or (b)(4) of Pub. L. 95-588, the actual income limitations will be published in the "Notices" section of the FEDERAL REGISTER.

(Authority: 38 U.S.C. 501)

[52 FR 34908, Sept. 14, 1987]

### § 3.27 Automatic adjustment of benefit rates.

(a) *Improved pension.* Whenever there is a cost-of-living increase in benefit amounts payable under section 215(i) of title II of the Social Security Act, VA