

Department of Veterans Affairs

§ 21.3300

or quarter basis, the ending date of the stepchild's eligibility is the last day of the term, semester, or quarter during which the stepchild ceases to be a member of the veteran's household.

(iii) If the stepchild ceases to be a member of the veteran's household while the stepchild is training in a school not organized on a term, semester, or quarter basis, the ending date of the stepchild's eligibility is the end of the course, or 12 weeks from the date on which the stepchild ceases to be a member of the veteran's household. See §21.3041(f).

(Authority: 38 U.S.C. 101(4)(a), 3501)

(h) *Veteran no longer rated permanently and totally disabled.* (1) If the veteran on whose service an eligible person's eligibility is based is no longer permanently and totally disabled, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which VA rated the veteran as no longer permanently and totally disabled if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date VA rated the veteran as being no longer permanently and totally disabled.

(Authority: 38 U.S.C. 3511(b), 3512(a)(6)(A))

(i) Serviceperson is removed from "missing status" listing. (1) If the serviceperson on whose service an eligible person's eligibility is based is removed from the "missing status" listing, VA will discontinue the educational assistance allowance—

(i) On the last date of the quarter or semester during which the serviceperson was removed from the "missing status" listing if the eligible person's educational institution is organized on a quarter or semester basis; or

(ii) On the earlier of the following dates when the eligible person's educational institution is not organized on a quarter or semester basis:

(A) The last date of the course;

(B) The end of a 12-week period beginning on the date the serviceperson was removed from the "missing status" listing.

(Authority: 38 U.S.C. 3512(a)(6)(A))

(j) *Fugitive felons.* (1) VA will not award educational assistance allowance to an otherwise eligible person for any period after December 26, 2001, during which the—

(i) Eligible person is a fugitive felon; or

(ii) Veteran from whom eligibility is derived is a fugitive felon.

(2) The date of discontinuance of an award of educational assistance allowance to an eligible person is the later of—

(i) The date of the warrant for the arrest of the felon; or

(ii) December 27, 2001.

(Authority: 38 U.S.C. 5313B)

[61 FR 26111, May 24, 1996, as amended at 70 FR 25786, May 16, 2005; 73 FR 30491, May 28, 2008]

SPECIAL RESTORATIVE TRAINING

§ 21.3300 Special restorative training.

(a) *Purpose of special restorative training.* The Department of Veterans Affairs may prescribe special restorative training where needed to overcome or lessen the effects of a physical or mental disability for the purpose of enabling an eligible person to pursue a program of education, special vocational program or other appropriate goal. Medical care and treatment or psychiatric treatment are not included.

(Authority: 38 U.S.C. 3540 through 3543)

(b) *Eligible persons.* VA may prescribe special restorative training for an eligible person who is a child, spouse, or surviving spouse except for a spouse whose qualification as an eligible person is under §21.3021(a)(3)(ii). The special restorative training must begin after December 26, 2001, for a spouse or surviving spouse.

(Authority: 38 U.S.C. 3501, 3540, 3541, 3543; sec. 109, Pub. L. 107-103, 115 Stat. 986)

§ 21.3301

38 CFR Ch. I (7-1-08 Edition)

(c) *Special restorative training courses.* The counseling psychologist or vocational rehabilitation counselor, after consulting with the Vocational Rehabilitation Panel, may prescribe for special restorative training purposes courses such as—

- (1) Speech and voice correction or retention,
- (2) Language retraining,
- (3) Speech (lip) reading,
- (4) Auditory training,
- (5) Braille reading and writing,
- (6) Training in ambulation,
- (7) One-hand typewriting,
- (8) Nondominant handwriting,
- (9) Personal, social and work adjustment training,
- (10) Remedial reading, and
- (11) Courses at special schools for mentally and physically disabled or
- (12) Courses provided at facilities which are adapted or modified to meet special needs of disabled students.

(Authority: 38 U.S.C. 3540, 3541, 3543)

(d) *Duration of special restorative training.* VA may provide special restorative training in excess of 45 months where an additional period of time is needed to complete the training. Entitlement, including any authorized in excess of 45 months, may be expended through an accelerated program requiring a rate of payment for tuition and fees in excess of—

- (1) \$213.00 a month for the period beginning October 1, 2002, and ending September 30, 2003;
- (2) \$218.00 a month for the period beginning October 1, 2003, and ending June 30, 2004; and
- (3) \$247.00 a month for months after June 30, 2004.

(Authority: 38 U.S.C. 3541(b), 3542)

(e) *Special restorative training precluded in Department of Veterans Affairs facilities.* Special restorative training will not be provided in Department of Veterans Affairs facilities.

(Authority: 38 U.S.C. 3543(b))

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42725, Oct. 24, 1984; 50 FR 19934, May 13, 1985; 63 FR 67779, Dec. 9, 1998; 66 FR 32228, June 14, 2001; 68 FR 34322, June 9, 2003; 69 FR 62208, Oct. 25, 2004; 73 FR 2424, Jan. 15, 2008]

§ 21.3301 Need.

(a) *Determination of need.* When special restorative training has been requested or is being considered for an eligible person with a disability who is a child, spouse, or surviving spouse, a counseling psychologist or vocational rehabilitation counselor will obtain all information necessary to determine the need for and feasibility of special restorative training. After the counseling psychologist or vocational rehabilitation counselor completes this task, he or she will refer the case to the Vocational Rehabilitation Panel. The panel will consider whether—

(1) There exists a handicap which will interfere with pursuit of a program of education;

(2) The period of special restorative training materially will improve the child's, spouse's, or surviving spouse's ability to:

- (i) Pursue a program of education,
- (ii) Pursue a program of specialized vocational training,
- (iii) Obtain continuing employment in a sheltered workshop, or
- (iv) Adjust in his or her family or community;

(3) The special restorative training may be pursued concurrently with a program of education;

(4) Training will affect adversely the child's, spouse's, or surviving spouse's mental or physical condition;

(5) In the case of a child, whether it is in the best interest of the child to begin special restorative training after his or her 14th birthday; and

(6) The Department of Veterans Affairs:

(i) Has considered assistance available under provisions of State-Federal programs for education of individuals with disabilities; and

(ii) Has determined that it is in the eligible person's interest to receive benefits under 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3501, 3540, 3541(a), 3543)

(b) *Report.* The Vocational Rehabilitation Panel will prepare a written report of its findings and recommendations as to the need for assistance and the types of assistance which should be provided. The report will be sent to the counseling psychologist or vocational rehabilitation counselor.