

## § 21.5022

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

### § 21.5022 Eligibility under more than one program.

(a) *Concurrent benefits under more than one program.* An individual may not receive educational assistance under 38 U.S.C. Chapter 32 concurrently with benefits under any of the following provisions of law:

- (1) 38 U.S.C. Chapter 31;
- (2) 38 U.S.C. Chapter 35;
- (3) 10 U.S.C. Chapter 107;
- (4) 10 U.S.C. Chapter 1606;
- (5) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note); or

(6) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(Authority: 38 U.S.C. 3681(b))

(b) *Total eligibility under more than one program.* (1) No one may receive a combination of educational assistance benefits under 38 U.S.C. Chapter 32 and any of the following provisions of law for more than 48 months (or part-time equivalent):

- (i) 38 U.S.C. Chapter 30;
- (ii) 38 U.S.C. Chapter 35;
- (iii) 10 U.S.C. Chapter 107;
- (iv) 10 U.S.C. Chapter 1606;
- (v) Section 903 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(vi) The Hostage Relief Act of 1980 (5 U.S.C. 5561 note); or

(vii) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(2) No one may receive assistance under 38 U.S.C. Chapter 31 in combination with assistance under 38 U.S.C. Chapter 32 in excess of 48 months (or the part-time equivalent) unless VA determines that additional months of benefits under 38 U.S.C. Chapter 31 are necessary to accomplish the purposes of a rehabilitation program.

(Authority: 38 U.S.C. 3231, 3695)

[51 FR 12852, Apr. 16, 1986; 51 FR 16517, May 5, 1986, as amended at 53 FR 34495, Sept. 7, 1988; 57 FR 38614, Aug. 26, 1992; 61 FR 29029, June 7, 1996]

### § 21.5023 Nonduplication; Federal programs.

An individual may not receive educational assistance allowance under 38 U.S.C. Chapter 32, if the individual is:

(a) On active duty and is pursuing a course of education which is being paid for, in whole or in part, by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service), or

(Authority: 38 U.S.C. 3241, 3681)

(b) Attending a course of education or training paid for, in whole or in part, under the Government Employees' Training Act.

(Authority: 38 U.S.C. 3241, 3681)

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51744, Nov. 17, 1982; 61 FR 7217, Feb. 27, 1996]

## CLAIMS AND APPLICATIONS

### § 21.5030 Applications, claims, and time limits.

(a) To become a participant an individual must apply to his or her Service Department on forms prescribed by the Service Department and/or the Secretary of Defense.

(b) Rules and regulations of the applicable Service Department and/or the Department of Defense shall determine if the application is timely.

(c) The provisions of the following sections shall apply to claims for educational assistance under 38 U.S.C. chapter 32:

- (1) Section 21.1029—Definitions.
- (2) Section 21.1030—Claims.
- (3) Section 21.1031—VA responsibilities when a claim is filed.
- (4) Section 21.1032—Time Limits

(Authority: 38 U.S.C. 3232, 3241, 3471; Pub. L. 94-502, Pub. L. 99-576)

[45 FR 31, Jan. 2, 1980, as amended at 48 FR 3368, Jan. 25, 1983; 53 FR 34495, Sept. 7, 1988; 64 FR 23772, May 4, 1999]

## ELIGIBILITY

### § 21.5040 Basic eligibility.

(a) *Individuals not on active duty.* Whether an individual has basic eligibility under 38 U.S.C. Chapter 32 for educational assistance depends upon when he or she entered the military service, the length of that service, and the character of that service.

(Authority: 38 U.S.C. 3202).