

Department of Veterans Affairs

§ 21.5741

(6) Make appropriate payments of educational assistance and subsistence allowance.

(Authority: 10 U.S.C. 2142-2149)

CLAIMS AND APPLICATIONS

§ 21.5730 Applications, claims, and time limits.

The provisions of subpart B of this part apply with respect to claims for educational assistance under the educational program described in § 21.5701, VA actions upon receiving a claim, and time limits connected with claims.

(Authority: 10 U.S.C. 2141, 2149; 38 U.S.C. 5101, 5102, 5103)

[64 FR 23772, May 4, 1999]

ELIGIBILITY AND ENTITLEMENT

§ 21.5740 Eligibility.

(a) *Establishing eligibility.* To establish eligibility to educational assistance under 10 U.S.C. Chapter 107 an individual must—

(1) Enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force or Marine Corps after September 30, 1980 and before October 1, 1981 specifically for benefits under the provisions of 10 U.S.C. 2141 through 2149, Pub. L. 96-342,

(2) Have graduated from a secondary school,

(3) Meet other requirements as the Secretary of Defense may consider appropriate for the purpose of this chapter and the needs of the Armed Forces,

(4) Meet the service requirements stated in paragraph (b) of this section, and

(5) If a veteran, have been discharged under honorable conditions.

(Authority: 10 U.S.C. 2142(b), 38 U.S.C. 5303A)

(b) *Service Requirements.* (1) The individual must complete 24 continuous months of active duty of the enlistment or reenlistment described in paragraph (a)(1) of this section; or

(2) If the enlistment described in paragraph (a) of this section is the individual's initial enlistment for service on active duty, the individual must—

(i) Complete 24 continuous months of active duty, or

(ii) Be discharged or released from active duty—

(A) Under 10 U.S.C. 1173 (hardship discharge), or

(B) Under 10 U.S.C. 1171 (early-out discharge), or

(C) For a disability incurred in or aggravated in line of duty; or

(iii) Be found by the VA to have a service-connected disability which gives the individual basic entitlement to disability compensation as described in § 3.4(b) of this title. Once the VA makes this finding, the individual's eligibility will continue notwithstanding that the disability becomes non-compensable.

(3) In computing time served for the purpose of this paragraph, VA will exclude any period during which the individual is not entitled to credit for service as specified in § 3.15 of this title. However, those periods will not interrupt the individual's continuity of service.

(Authority: 10 U.S.C. 2142; 38 U.S.C. 5303A)

[45 FR 31, Jan. 2, 1980, as amended at 54 FR 34984, Aug. 23, 1989]

§ 21.5741 Eligibility under more than one program.

(a) *Veterans and servicemembers.* A veteran or servicemember who is eligible for educational assistance under either 38 U.S.C. chapter 31 or 34, or subsistence allowance under 38 U.S.C. chapter 31 may also be eligible for the Educational Assistance Test Program. (See § 21.5824 for restrictions on duplication of benefits.)

(b) *Spouse, surviving spouse or dependent child.* A spouse, surviving spouse or dependent child who is eligible to receive educational assistance under 38 U.S.C. Chapters 31, 32, 34 and 35 may also be eligible for the Educational Assistance Test Program. (See § 21.5824 for restrictions on duplication of benefits.)

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

(c) *Limitation on benefits.* (1) Before March 2, 1984 the 48 month limitation on benefits under two or more programs found in 38 U.S.C. 3695 does not apply to the Educational Assistance Test Program when taken in combination with any program authorized under title 38 U.S.C.