

§ 21.5824

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

(2) The following rules govern the amount of subsistence allowance payable to surviving spouses and dependent children of deceased veterans and servicemembers.

(i) VA will determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction full-time during the 2003-04 academic year by dividing \$1,051 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(ii) VA will determine the monthly rate of subsistence allowance payable to a person for a day during which he or she is pursuing a course of instruction on other than a full-time basis during the 2003-04 academic year by dividing \$525.50 per month by the number of the deceased veteran's dependents pursuing a course of instruction on that day.

(Authority: 10 U.S.C. 2144, 2145)

(iii) The total amount of subsistence allowance payable to a person for a month is the sum of the person's daily rates for the month.

(c) *Time of subsistence allowance payments.* VA will make payments of subsistence allowance on the first day of the month following the month for which subsistence allowance is due, provided that VA receives a timely enrollment certification. If VA receives the enrollment certification so late that payment cannot be made on the first day of the month following the month for which subsistence allowance is due, VA will make payment as soon as practicable.

(Authority: 10 U.S.C. 2144)

[51 FR 27026, July 29, 1986]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 21.5822, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 21.5824 Nonduplication: Federal programs.

(a) *Duplication of some benefits prohibited.* An individual who is receiving educational assistance under programs authorized by 38 U.S.C. Chapters 30, 31, 32, 34, 35 or 36 may not receive concur-

rently either educational assistance or subsistence allowance under the §§ 21.5700, 21.5800 and 21.5900 series of regulations for the same program of education, but may receive them sequentially.

(b) *Debts may result from duplication.*

(1) If an individual receives benefits under 38 U.S.C. Chapters 30, 31, 32, 34, 35 or 36 for training, and he or she has previously received educational assistance or subsistence allowance (or both) under §§ 21.5700, 21.5800, 21.5900 series of regulations the amount of the benefits received under 38 U.S.C. Chapters 30, 31, 32, 34 or 35 shall not constitute a debt due the United States.

(2) If an individual receives benefits under 38 U.S.C. Chapter 34, and had signed an agreement with the Department of Defense to waive those benefits in return for receiving benefits under the educational assistance test program:

(i) Any benefits already paid under the educational assistance test program will constitute a debt due the United States, and

(ii) No further benefits under the educational assistance test program will be paid to the individual or to anyone to whom entitlement may be transferred.

(Authority: 10 U.S.C. 2141)

§ 21.5828 False or misleading statements.

(a) *False statements.* An individual who attempts to obtain educational assistance or subsistence allowance or both through submission of false or misleading statements is subject to civil penalties or criminal penalties or both under applicable Federal law.

(Authority: 31 U.S.C. 3729-3731; 18 U.S.C. 1001)

(b) *Effect of false statements on subsequent payments.* A determination that false or misleading statements have been made will not constitute a bar to payments based on training to which the false or misleading statements do not apply.

(Authority: 10 U.S.C. 2141, 2144)