

§ 21.7640

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

the established charge which the educational institution requires non-reservists to pay for the lessons—

- (1) Which the reservist has completed;
- (2) Which the educational institution has serviced; and
- (3) For which payment is due.

(Authority: 10 U.S.C. 2131(f); sec. 642 (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(f) *Failure to work sufficient hours of apprenticeship and other on-job training.*

(1) For any calendar month in which a reservist pursuing an apprenticeship or other on-job training program fails to complete 120 hours of training, VA will reduce proportionally—

(i) The rates specified in § 21.7636(a)(2); and

(ii) Any increase set by the Secretary of the military department concerned as described in § 21.7636(b).

(2) In making the computations required by paragraph (f)(1) of this section, VA will round the number of hours worked to the nearest multiple of eight.

(3) For the purpose of this paragraph, hours worked include only—

(i) The training hours the reservist worked; and

(ii) All hours of the reservist's related training which occurred during the standard workweek and for which the reservist received wages. (See § 21.7636(a)(2)(ii) as to the requirements for full-time training.)

(Authority: 10 U.S.C. 2131(d)(2), 16131(i)(1); sec. 642 (b), (d), Pub. L. 101-189, 103 Stat. 1456-1458)

(g) *Flight training course.* A reservist who is pursuing a flight training course shall be paid 60 percent of the established charge for tuition and fees (other than tuition and fees charged for or attributable to solo flying hours) which the flight school requires similarly circumstanced nonreservists enrolled in the same course to pay.

(Authority: 10 U.S.C. 16131(g))

(h) *Membership in the Senior Reserve Officers' Training Corps.* A reservist may not receive educational assistance for any period for which he or she receives financial assistance under 10

U.S.C. 2107 as a member of the Senior Reserve Officers' Training Corps.

(Authority: 10 U.S.C. 16134)

(i) *Course not offered by an institution of higher learning or not leading to an identifiable educational, professional, or vocational objective.* A reservist who is limited in the types of courses he or she may pursue, as described in § 21.7540(b)(2) and (b)(3), may not receive educational assistance for instruction in a program of education unless it is offered at an institution of higher learning. The instruction must lead to an identifiable educational, professional, or vocational objective, but does not have to lead to a standard college degree.

(Authority: 10 U.S.C. 2131(b), 2136(b); sec. 705(a)(1), Pub. L. 98-525, 98 Stat. 2565, 2567; secs. 642 (b)(1), (c), (d), 645(a), (b), Pub. L. 101-189, 103 Stat. 1456-1458)

[53 FR 34740, Sept. 8, 1988, as amended at 57 FR 57107, Dec. 3, 1992; 58 FR 51783, Oct. 5, 1993; 58 FR 65930, Dec. 17, 1993; 61 FR 29305, June 10, 1996; 61 FR 29482, June 11, 1996; 62 FR 55521, Oct. 27, 1997; 62 FR 55762, Oct. 28, 1997]

§ 21.7640 Release of payments.

(a) *Payments are dependent upon certifications, reports, and verifications of pursuit.* When certifications, reports, or verifications of pursuit are mentioned in this paragraph, the certifications, reports, and verifications of pursuit are to be made in the form prescribed by the Secretary of Veterans Affairs.

(1) VA will pay educational assistance to a reservist who is pursuing a standard college degree only after the educational institution has certified his or her enrollment.

(2) VA will pay educational assistance to a reservist who is pursuing a course not leading to a standard college degree (other than a correspondence course, a course of flight training, or an apprenticeship or other on-job training) only after:

(i) The educational institution has certified his or her enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a report by the reservist, which report is endorsed by the educational institution, of—

Department of Veterans Affairs

§ 21.7642

(A) Each day of absence that occurred before December 18, 1989; or

(B) A verification of pursuit from the reservist of training that occurred on or after December 18, 1989.

(3) VA will pay educational assistance to a reservist pursuing a program of apprenticeship or other on-job training only after:

(i) The training establishment has certified his or her enrollment in the training program in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received certification by the reservist and the training establishment of the reservist's hours worked.

(4) VA will pay educational assistance to a reservist who is pursuing a correspondence course only after:

(i) The educational institution has certified his or her enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a certification by the reservist, which certification is endorsed by the educational institution, as to the number of lessons completed and serviced by the educational institution.

(5) VA will pay educational assistance to a reservist who is pursuing a flight course only after:

(i) The educational institution certifies the reservist's enrollment in the form prescribed by the Secretary of Veterans Affairs; and

(ii) VA has received a report by the reservist of the flight training the reservist has completed, which report is endorsed by the educational institution.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680)

(b) *Payment for breaks, including intervals between terms.* In administering 10 U.S.C. chapter 1606, VA will apply the provisions of § 21.4138(f) when determining whether a reservist is entitled to payment for a break, including an interval between terms.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

(c) *Payee.* (1) VA will make payment to the reservist or to a duly appointed fiduciary. VA will make direct payment to the reservist even if he or she is a minor.

(2) The assignment of educational assistance is prohibited. In administering this provision, VA will apply the provisions of §§ 21.4146 (a), (b), (c) and (e) of this part to 10 U.S.C. chapter 1606 in a manner not inconsistent with the way in which they are applied in the administration of 38 U.S.C. chapters 34 and 36.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680, 5301(a))

(d) *Advance payments.* VA will apply the provisions of § 21.4138(a) in making advance payments to reservists.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3680)

(e) *Frequency of payment.* Except as provided in § 21.4138(a), VA shall pay educational assistance in the month following the month for which training occurs. VA may withhold payment to a reservist who is enrolled in a course not leading to a standard college degree for any month until the reservist's attendance has been reported for that month. VA may withhold final payment in all cases until it both receives certification that the reservist pursued his or her course, and makes any necessary adjustments.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680(g))

(f) *Apportionments prohibited.* VA will not apportion educational assistance.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

(Approved by the Office of Management and Budget under control number 2900-0073)

[53 FR 34740, Sept. 8, 1988, as amended at 61 FR 20729, May 8, 1996; 61 FR 29306, June 10, 1996; 61 FR 29482, June 11, 1996; 64 FR 52652, Sept. 30, 1999; 72 FR 39564, July 19, 2007]

§ 21.7642 Nonduplication of educational assistance.

(a) *Payments of educational assistance shall not be duplicated.* A reservist is barred from receiving educational assistance concurrently under 10 U.S.C. Chapter 1606 and any of the following provisions of law—

- (1) 38 U.S.C. ch. 30;
- (2) 38 U.S.C. ch. 31;
- (3) 38 U.S.C. ch. 32;
- (4) 38 U.S.C. ch. 34;
- (5) 38 U.S.C. ch. 35;