

§ 3.502

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

married, is receiving pension at the rate for a veteran without dependents.

(ii) Last day of the third calendar month following admission for hospitalization or nursing home care if veteran without spouse or child or, though married, is receiving pension at the rate for a veteran without dependents.

(iii) Upon readmission to hospital, domiciliary, or nursing home care within 6 months of a period for which pension was reduced under § 3.551(d)(1) or (2), the last day of the month of such readmission.

(5) *Section 3.551(e)* (i) Last day of the third calendar month following admission to domiciliary or nursing home care if veteran without spouse or child or, though married, is receiving pension at the rate for a veteran without dependents. (ii) Upon readmission to domiciliary or nursing home care within 6 months of a period of domiciliary or nursing home care for which pension was reduced under § 3.551(e)(1), the last day of the month of such readmission.

(6) *Section 3.551(h)*. (i) Last day of the calendar month in which Medicaid payments begin, last day of the month following 60 days after issuance of a prereduction notice required under § 3.103(b)(2), or the earliest date on which payment may be reduced without creating an overpayment, whichever date is later; or

(ii) If the veteran willfully conceals information necessary to make the reduction, the last day of the month in which that willful concealment occurred.

(Authority: 38 U.S.C. 5503)

(j) *Institutional award and/or to Personal Funds of Patients* (§ 3.852). Date of last payment, when veteran is discharged from hospital, fiduciary appointed, or veteran rated competent.

(k) *Lump-sum readjustment pay*. See § 3.700(a)(2).

(l) *Retirement pay* (38 U.S.C. 5112(b)(3); *Pub. L. 87-825*; § 3.750). Day before effective date of retirement pay.

(m) *Temporary increase* (38 U.S.C. 5112(b)(8); § 4.29 of this chapter). Last day of month in which hospitalization or treatment terminated, whichever is earlier, where temporary increase in

compensation was authorized because of hospitalization for treatment.

(n) *Section 3.853. Incompetents; estate over \$25,000*. Incompetent veteran receiving compensation, without spouse, child, or dependent parent, whose estate exceeds \$25,000: Last day of the first month in which the veteran's estate exceeds \$25,000, but not earlier than November 1, 1990.

(Authority: 38 U.S.C. 5505)

[26 FR 1596, Feb. 24, 1961, as amended at 27 FR 11889, Dec. 1, 1962; 29 FR 12368, Aug. 28, 1964; 29 FR 16329, Dec. 5, 1964; 35 FR 2828, Feb. 11, 1970; 37 FR 6679, Apr. 1, 1972; 38 FR 34115, Dec. 11, 1973; 41 FR 55874, Dec. 23, 1976; 44 FR 45941, Aug. 6, 1979; 48 FR 34473, July 29, 1983; 53 FR 23236, June 21, 1988; 56 FR 25045, June 3, 1991; 56 FR 65849, 65853, Dec. 19, 1991; 66 FR 48560, Sept. 21, 2001; 68 FR 34542, June 10, 2003]

§ 3.502 Surviving spouses.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a surviving spouse will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

(Authority: 38 U.S.C. 501)

(a) *Additional allowance of dependency and indemnity compensation for children* (38 U.S.C. 5112(b) § 3.5(e)(3)). (1) If marriage occurred prior to October 1, 1982, the day preceding child's 18th birthday or last day of calendar year in which child's marriage occurred (see § 3.500(n) (2) and (3)), whichever is earlier.

(2) If marriage occurred on or after October 1, 1982, the day preceding child's 18th birthday or last day of the month in which marriage occurred (see § 3.500(n) (2) and (3)) whichever is earlier.

(b) *Pay grade; dependency and indemnity compensation* (38 U.S.C. 1311(a), 5112(b)(10); *Pub. L. 91-96, 83 Stat. 144*). Date of last payment when rate is reduced because of new certification of pay grade.

(c) *Legal surviving spouse entitled*. Date of last payment on award to another person as surviving spouse. See § 3.657.

(Authority: 38 U.S.C. 501)

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(d) *Marriage*. See § 3.500(n).

(e) *Aid and attendance* (§ 3.351(a)). (1) Date of last payment, if need for aid and attendance has ceased.

(2) If hospitalized at Department of Veterans Affairs expense as a veteran, the date specified in § 3.552(b) (1) or (3).

(f) *Medicaid-covered nursing home care* (§ 3.551(i)). (1) Last day of the calendar month in which Medicaid payments begin, last day of the month following 60 days after issuance of a prereduction notice required under § 3.103(b)(2), or the earliest date on which payment may be reduced without creating an overpayment, whichever date is later; or

(2) If the surviving spouse willfully conceals information necessary to make the reduction, the last day of the month in which that willful concealment occurred.

(Authority: 38 U.S.C. 5503)

[26 FR 1596, Feb. 24, 1961, as amended at 27 FR 11890, Dec. 1, 1962; 33 FR 2995, Feb. 15, 1968; 35 FR 2828, Feb. 11, 1970; 37 FR 6679, Apr. 1, 1972; 41 FR 55874, Dec. 23, 1976; 48 FR 34473, July 29, 1983; 53 FR 23237, June 21, 1988; 58 FR 32445, June 10, 1993]

§ 3.503 Children.

(a) The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or surviving spouse on behalf of such child, will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

(Authority: 38 U.S.C. 501)

(1) *Age 18 (or 23)* (38 U.S.C. 5112(a); § 3.57). Day before 18th (or 23d birthday).

(2) *Enters service*. Date of last payment of apportioned disability benefits for child not in custody of estranged spouse. Full rate payable to veteran. No change where payments are being made for the child to the veteran, his (her) estranged spouse, his (her) surviving spouse, or to the fiduciary of a child not in the surviving spouse's custody.

(Authority: 38 U.S.C. 501)

(3) *Permanently incapable of selfsupport* (38 U.S.C. 5112(a), (b)(6); *Pub. L. 87-825*; §§ 3.57, 3.950)—(i) *Pension*. Date of last payment.

(ii) *Compensation or dependency and indemnity compensation*. Last day of month following 60 days after notice to payee.

(4) *Marriage*. See § 3.500(n).

(5) *School attendance*. See § 3.667.

(6) *Stepchild no longer member of veteran's household* (§ 3.57). Last day child was a member of household.

(7) *Two parent cases* (§ 3.703). Day preceding beginning date of award based on service of the other parent.

(8) *Dependents' educational assistance* (§§ 3.707, 3.807, and § 21.3023 of this chapter). Day preceding beginning date of educational assistance allowance.

(9) *Surviving spouse becomes entitled*. Date of last payment. See § 3.657.

(Authority: 38 U.S.C. 501)

(10) *Interlocutory adoption decree or adoptive placement agreement*. Date child left custody of adopting parent during the interlocutory period or during adoptive placement agreement, or date of rescission of the decree or date of termination of the adoptive placement agreement, whichever first occurs.

(b) *Monetary allowance under 38 U.S.C. chapter 18 for certain individuals who are children of Vietnam veterans*. The effective date of discontinuance of the monthly allowance under 38 U.S.C. chapter 18 will be the last day of the month before the month in which the death of the individual occurred.

(Authority: 38 U.S.C. 1822, 5112(b))

(Authority: 38 U.S.C. 501)

[26 FR 1597, Feb. 24, 1961, as amended at 27 FR 11890, Dec. 1, 1962; 30 FR 14983, Dec. 3, 1965; 34 FR 839, Jan. 18, 1969; 38 FR 872, Jan. 5, 1973; 41 FR 55875, Dec. 23, 1976; 53 FR 23237, June 21, 1988; 62 FR 51279, Sept. 30, 1997; 67 FR 49587, July 31, 2002]

§ 3.504 Parents; aid and attendance.

The effective date of discontinuance of an increased award because of the parent's need for aid and attendance will be the day of last payment if need for aid and attendance has ceased. If hospitalized at Department of Veterans