

### § 3.802

(e) *Hospitalization.* Pension payable under special acts is subject to reduction pursuant to § 3.551.

(Authority: 38 U.S.C. 501(a), 5503)

[26 FR 1605, Feb. 24, 1961, as amended at 39 FR 34532, Sept. 26, 1974; 68 FR 34543, June 10, 2003]

### § 3.802 Medal of Honor.

(a) The Secretary of the Department of the Army, the Department of the Navy, the Department of the Air Force, or the Department of Transportation will determine the eligibility of applicants to be entered on the Medal of Honor Roll and will deliver to the Secretary of the Department of Veterans Affairs a certified copy of each certificate issued in which the right of the person named in the certificate to the special pension is set forth. The special pension will be authorized on the basis of such certification.

(Authority: 38 U.S.C. 1560, 1561)

(b) An award of special pension at the monthly rate specified in 38 U.S.C. 1562 will be made as of the date of filing of the application with the Secretary concerned. The special pension will be paid in addition to all other payments under laws of the United States. However, a person awarded more than one Medal of Honor may not receive more than one special pension.

(Authority: 38 U.S.C. 1562)

(c) VA will pay to each person who is receiving or who in the future receives Medal of Honor pension a retroactive lump sum payment equal to the total amount of Medal of Honor pension that person would have received during the period beginning the first day of the month after the date of the event for which the veteran earned the Medal of Honor and ending on the last day of the month preceding the month in which pension was awarded under paragraph (b) of this section. VA will calculate the lump sum payment using the monthly Medal of Honor pension rates in effect from the first day of the month after the date of the event for which the veteran earned the Medal of Honor, to the last day of the month preceding the month in which the individual was initially awarded the Medal

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of Honor pension. VA will not make a retroactive lump sum payment under this section before October 1, 2003.

(Authority: 38 U.S.C. 1562(f))

[26 FR 1605, Feb. 24, 1961, as amended at 32 FR 6840, May 4, 1967; 44 FR 22721, Apr. 17, 1979; 52 FR 34909, Sept. 16, 1987; 68 FR 55467, Sept. 26, 2003]

### § 3.803 Naval pension.

(a) Payment of naval pension will be authorized on the basis of a certification by the Secretary of the Navy.

(Authority: 10 U.S.C. 6160)

(b) Awards of naval pension in effect prior to July 14, 1943, or renewed or continued may be paid concurrently with Department of Veterans Affairs pension or compensation; however, naval pension allowance under 10 U.S.C. 6160 may not exceed one-fourth of the rate of disability pension or compensation otherwise payable, exclusive of additional allowances for dependents or specific disabilities.

(c) New awards of naval pension may not be made concurrently with Department of Veterans Affairs pension or compensation.

(Authority: 38 U.S.C. 5304(a))

(d) Naval pension remaining unpaid at the date of the veteran's death is not payable by the Department of Veterans Affairs as an accrued benefit.

[26 FR 1605, Feb. 24, 1961, as amended at 28 FR 2857, Mar. 22, 1963; 44 FR 22721, Apr. 17, 1979]

### § 3.804 Special allowance under 38 U.S.C. 1312.

(a) The provisions of this section are applicable to the payment of a special allowance by the Department of Veterans Affairs to the surviving dependents of a veteran who served after September 15, 1940, and who died on or after January 1, 1957, as a result of such service and who was not a fully and currently insured individual under title II of the Social Security Act.

(b) The special allowance is not payable: (1) Where the veteran's death resulted from Department of Veterans Affairs hospitalization, treatment, examination, or training;