

(g) Upon written application, a complainant or a person, firm or other entity against which a complaint has been filed may apply to the Under Secretary for Benefits for a review of the action taken by a Director. Upon receiving such application, the Under Secretary for Benefits may designate a representative or representatives to conduct an informal hearing and to make a report of findings. The Under Secretary for Benefits may, after a review of such report, modify or reverse an action taken by a Director.

(h) Reinstatement of restricted persons, firms or other entities shall be within the discretion of the Under Secretary for Benefits and under such terms as the Under Secretary for Benefits may prescribe.

[29 FR 2862, Feb. 29, 1964, as amended at 40 FR 34596, Aug. 18, 1975; 61 FR 28059, June 4, 1996]

Subpart C—Assistance to Certain Disabled Veterans in Acquiring Specially Adapted Housing

NOTE: Those requirements, conditions, or limitations expressly set forth in 38 U.S.C. Chapter 21 and not restated herein must be taken into consideration in conjunction with the regulations in §§ 36.4401 to 36.4410.

[24 FR 2657, Apr. 7, 1959]

§ 36.4400 Applicability.

References in the regulations pertaining to assistance to certain disabled veterans in acquiring specially adapted housing to 38 U.S.C. chapters 21 and 37, shall where applicable, be deemed to refer also to the prior corresponding provision of the law.

[24 FR 2657, Apr. 7, 1959]

§ 36.4401 Definitions.

Wherever used in 38 U.S.C. Chapter 21 or §§ 36.4401 through 36.4410, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated; namely:

(a) *Secretary*: The Secretary of Veterans Affairs or any employee of the Department of Veterans Affairs authorized to act in the Secretary's stead.

(b) *Chapter 21*: chapter 21 of title 38, U.S.C.

(c) *Movable facilities*: Such exercising equipment and other aids as may be allowed or required by the Chief Medical Director or designee.

(d) *Necessary land*: Any plot of land the cost and area of which are not disproportionate to the type of improvements thereon and which is in keeping with the locality.

(e) *Special fixtures and necessary adaptations*. Construction features which are specially designed to overcome the physical limitations of the individual beneficiary and which are allowed or required by the Chief Medical Director or designee as necessary by nature of the qualifying disability.

(f) *Housing unit*: A family dwelling or unit approved by the Veterans Health Services and Research Administration as medically feasible for occupancy as a home by the individual beneficiary, including the land, improvements, and all appurtenances, together with such movable facilities or special features as are authorized under the definitions of those terms in §§ 36.4401 through 36.4410.

(g) *Remodeling*: Any alterations, repairs, or improvements necessary or desirable to the housing unit, as defined in §§ 36.4401 through 36.4410.

(h) *Veteran's family*. Persons related by blood, marriage, or adoption.

(Authority: 38 U.S.C. 2101(b))

[24 FR 2657, Apr. 7, 1959, as amended at 46 FR 43673, Aug. 31, 1981]

§ 36.4402 Eligibility.

(a) *Eligibility, housing grants*. No beneficiary shall be eligible for assistance under section 2101(a) of Chapter 21 for the purpose of reimbursing the veteran for the cost of an existing structure acquired by the veteran prior to applying for assistance or for constructing or remodeling a dwelling or for otherwise acquiring a suitable housing unit, unless it is determined pursuant to §§ 36.4401 through 36.4410 that:

(1) It is medically feasible for such beneficiary to reside in the existing or proposed housing unit and in the locality where such is or will be situated;

(2) The nature and condition of the proposed housing unit are such as to be

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suitable to the veteran's needs for dwelling purposes;

(3) Such unit bears a proper relation to the veteran's present and anticipated income and expenses;

(4) The veteran has or will acquire an interest in the housing unit which is:

(i) A fee simple estate, or

(ii) A leasehold estate, the unexpired term of which, including renewals at the option of the lessee, is not less than 50 years, or

(iii) An interest in a residential unit in a cooperative or a condominium type development which in the judgment of the Under Secretary for Benefits or the Director, Loan Guaranty Service, provides a right of occupancy for a period of not less than 50 years, or

(iv) A beneficial interest in a revocable Family Living Trust that ensures that the veteran, or veteran and spouse, have an equitable life estate, provided the trust arrangement is valid under State law;

Provided, The title to such estate or interest is or shall be such as is acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally, in the community;

(5) The veteran has certified, in such form as the Secretary shall prescribe, that

(i) Neither the veteran, nor anyone authorized to act for the veteran, will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the dwelling or property acquired by this benefit to any person because of race, color, religion, sex, or national origin;

(ii) The veteran recognizes that any restrictive covenant on the property relating to race, color, religion, sex, or national origin is illegal and void and any such covenant is specifically disclaimed;

(iii) The veteran understands that civil action for preventive relief may be brought by the Attorney General of the United States in any appropriate U.S. District Court against any person responsible for a violation of the applicable law; and

(6) The housing unit, if it is located or becomes located in an area identified by the Federal Emergency Man-

agement Agency as having special flood hazards and in which flood insurance has been made available under the National Flood Insurance Act, as amended, is or will be covered by flood insurance. The amount of flood insurance must be at least equal to the lesser of the full insurable value of the property or the maximum limit of coverage available for the particular type of property under the National Flood Insurance Act, as amended. The Secretary cannot approve any financial assistance for the acquisition or construction of property located in an area identified by the Federal Emergency Management Agency as having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program.

(Authority: 42 U.S.C. 4012a, 4106(a))

(b) *Eligibility, adaptations grants.* No beneficiary shall be eligible for assistance under section 2101(b) of chapter 21, for the cost of reasonably necessary adaptations to an existing structure or for the inclusion of such adaptations in proposed construction or for the purchase of a structure already including such adaptations unless it is determined pursuant to §§36.4401 through 36.4410 of this part that:

(1) The veteran has not been declared eligible for assistance under section 2101(a) of chapter 21;

(2) The veteran has not been provided the particular type of adaptation, improvement, or structural alteration under section 1712(a) of title 38 U.S.C.;

(3) The veteran is or will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family;

(4) The adaptations are reasonably necessary because of the veteran's disability; and

(5) If the veteran is the owner or part-owner of the housing unit, the veteran must comply with paragraphs (a)(5) and (6) of this section.

(Authority: 38 U.S.C. 2101(b), 2104)

[46 FR 43673, Aug. 31, 1981, as amended at 56 FR 9862, Mar. 8, 1991; 61 FR 28059, June 4, 1996; 62 FR 5531, Feb. 6, 1997]