

foot as a result of non-service-connected disability not the result of the veteran's own willful misconduct; or

(5) permanent service-connected disability of one lung, rated 50 percent or more disabling, in combination with a non-service-connected disability of the other lung that is not the result of the veteran's own willful misconduct,

the Secretary shall assign and pay to the veteran the applicable rate of compensation under this chapter as if the combination of disabilities were the result of service-connected disability.

(b) If a veteran described in subsection (a) of this section receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such subsection, the increase in the rate of compensation otherwise payable under this section shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

(Added Pub. L. 87-610, § 1, Aug. 28, 1962, 76 Stat. 406, § 360; amended Pub. L. 89-311, § 3(a), (b), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 94-433, title IV, § 404(22), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98-160, title VII, § 702(3), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99-576, title I, § 109(a)(1), Oct. 28, 1986, 100 Stat. 3253; renumbered § 1160 and amended Pub. L. 102-83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 107-330, title I, § 103, Dec. 6, 2002, 116 Stat. 2821; Pub. L. 110-157, title I, § 102, Dec. 26, 2007, 121 Stat. 1831.)

AMENDMENTS

2007—Subsec. (a)(1). Pub. L. 110-157 substituted "impairment of vision" for "blindness" in two places and "misconduct and—" for "misconduct;" and added subpars. (A) and (B).

2002—Subsec. (a)(3). Pub. L. 107-330 substituted "deafness compensable to a degree of 10 percent or more in one ear" for "total deafness in one ear" and "deafness in the other ear" for "total deafness in the other ear".

1991—Pub. L. 102-83, § 5(a), renumbered section 360 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in concluding provisions.

1986—Pub. L. 99-576 amended section generally, substituting "loss of paired organs or extremities" for "blindness or bilateral kidney involvement or bilateral deafness" in section catchline. Prior to amendment, text of section read as follows: "Where any veteran (1) has suffered blindness in one eye as a result of service-connected disability and has suffered blindness in the other eye as a result of non-service-connected disability not the result of such veteran's own willful misconduct, or (2) has suffered the loss or loss of use of one kidney as a result of service-connected disability, and has suffered severe involvement of the other kidney such as to cause total disability, as a result of non-service-connected disability not the result of such veteran's own willful misconduct, or (3) has suffered total deafness in one ear as a result of service-connected disability and has suffered total deafness in the other ear as the result of non-service-connected disability not the result of such veteran's own willful misconduct, the Administrator shall assign and pay to the veteran concerned the applicable rate of compensation under this

chapter as if such veteran's blindness in both eyes or such bilateral kidney involvement were the result of service-connected disability."

1983—Pub. L. 98-160 substituted "(1) has suffered" for "has suffered (1)".

1976—Pub. L. 94-433 substituted "such veteran's" for "his" wherever appearing.

1965—Pub. L. 89-311 added cl. (3) referring to total deafness in one ear as a result of service-connected disability and total deafness in the other ear as the result of non-service-connected disability not the result of his own willful misconduct, inserted reference to total deafness in both ears and, in section catchline, inserted reference to bilateral deafness.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 109(c) of Pub. L. 99-576 provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and section 314 [now 1114] of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 1986].

"(2) In the case of an award of compensation for a disability described in clause (1), (2), (3), or (5) of subsection (a) of section 360 [now 1160] of title 38, United States Code, as amended by subsection (a) of this section, subsection (b) of such section shall apply only to awards of compensation made on or after the date of the enactment of this Act [Oct. 28, 1986]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89-311, set out as a note under section 1114 of this title.

§ 1161. Payment of disability compensation in disability severance cases

The deduction of disability severance pay from disability compensation, as required by section 1212(c) of title 10, shall be made at a monthly rate not in excess of the rate of compensation to which the former member would be entitled based on the degree of such former member's disability as determined on the initial Department rating.

(Added Pub. L. 91-241, May 7, 1970, 84 Stat. 203, § 361; amended Pub. L. 94-433, title IV, § 404(23), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98-160, title VII, § 702(4), Nov. 21, 1983, 97 Stat. 1009; renumbered § 1161 and amended Pub. L. 102-83, §§ 4(a)(3), (4), 5(a), Aug. 6, 1991, 105 Stat. 404, 406.)

AMENDMENTS

1991—Pub. L. 102-83, § 5(a), renumbered section 361 of this title as this section.

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

1983—Pub. L. 98-160 struck out "United States Code," after "title 10,".

1976—Pub. L. 94-433 substituted "such former member's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-433 effective Oct. 1, 1976, see section 406 of Pub. L. 94-433, set out as a note under section 1101 of this title.

§ 1162. Clothing allowance

The Secretary under regulations which the Secretary shall prescribe, shall pay a clothing allowance of \$662 per year to each veteran who—