

(4)(C), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3022 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3022 was renumbered section 5122 of this title.

AMENDMENTS

1991—Pub. L. 102-83, § 5(a), renumbered section 1422 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted “3032” for “1432” and “3021” for “1421” in introductory provisions.

1989—Subsec. (a)(2). Pub. L. 101-237, § 423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (b). Pub. L. 101-237 inserted “of Defense” after third reference to “Secretary”.

1988—Subsec. (a). Pub. L. 100-689 substituted “The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except” for “Subject to section 1432 of this title and except”.

§ 3023. Payment of supplemental educational assistance under this subchapter

The Secretary shall increase the monthly basic educational assistance allowance paid to an individual who is entitled to supplemental educational assistance under this subchapter by the monthly amount of the supplemental educational assistance to which the individual is entitled.

(Added Pub. L. 98-525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2560, § 1423; amended Pub. L. 101-237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3023, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3023 was renumbered section 5123 of this title.

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1423 of this title as this section.

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator”.

SUBCHAPTER IV—TIME LIMITATION FOR USE OF ELIGIBILITY AND ENTITLEMENT; GENERAL AND ADMINISTRATIVE PROVISIONS

§ 3031. Time limitation for use of eligibility and entitlement

(a) Except as provided in subsections (b) through (g), and subject to subsection (h), of this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 10-year period beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 3012(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 3012(a)(1) is met;

(2) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990; and

(3) in the case of an individual who becomes entitled to such assistance under section 3011(a)(1)(C) or 3012(a)(1)(C) of this title, on December 27, 2001.

(b) In the case of any eligible individual who has been prevented, as determined by the Secretary, from pursuing a program of education under this chapter within the 10-year period prescribed by subsection (a) of this section because such individual had not met the nature of discharge requirement of this chapter before the nature of such individual's discharge or release was changed by appropriate authority, such 10-year period shall not run during the period of time that such individual was so prevented from pursuing such program of education.

(c) In the case of an individual eligible for educational assistance under the provisions of this chapter who, after such individual's last discharge or release from active duty, was detained by a foreign government or power, the 10-year period described in subsection (a) of this section shall not run (1) while such individual is so detained, or (2) during any period immediately following such individual's release from such detention during which such individual is hospitalized at a military, civilian, or Department of Veterans Affairs medical facility.

(d) In the case of an individual eligible for educational assistance under this chapter—

(1) who was prevented from pursuing such individual's chosen program of education before the expiration of the 10-year period for use of entitlement under this chapter otherwise applicable under this section because of a physical or mental disability which was not the result of the individual's own willful misconduct, and

(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Secretary shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(e)(1) Except as provided in paragraph (2) of this subsection, in the case of an individual described in section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C) of this title who is entitled to basic educational assistance under this chapter, the 10-year period prescribed in subsection (a) of this section shall be reduced by an amount of time equal to the amount of time that such individual was not serving on active duty during the period beginning on January 1, 1977, and ending on June 30, 1985.

(2) In the case of an individual to which paragraph (1) of this subsection is applicable and who is described in section 3452(a)(1)(B) of this title, the 10-year period prescribed in subsection (a) of this section shall not be reduced by any period in 1977 before the individual began serving on active duty.

(f)(1) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under section 3013, expire during a quarter or semester, such period shall be extended to the end of such quarter or semester.

(2) If an individual eligible for educational assistance under this chapter is enrolled under this chapter in an educational institution not regularly operated on the quarter or semester system and the period of such individual's entitlement under this chapter would, under section 3013, expire after a major portion of the course is completed, such period shall be extended to the end of the course or for 12 weeks, whichever is the lesser period of extension.

(g) In the case of an individual described in section 3011(f)(3) of this title, the period during which that individual may use the individual's entitlement to educational assistance allowance expires on the last day of the 10-year period beginning on the date of the enactment of the Veterans Millennium Health Care and Benefits Act if that date is later than the date that would otherwise be applicable to that individual under this section.

(h) For purposes of subsection (a) of this section, an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 3011(a)(1)(A)(ii)(III) of this title.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2560, §1431; amended Pub. L. 99-576, title III, §§307(b), 321(7), Oct. 28, 1986, 100 Stat. 3270, 3278; Pub. L. 100-689, title I, §111(a)(6), Nov. 18, 1988, 102 Stat. 4171; Pub. L. 101-237, title IV, §§420(a)(1), (b), 423(a)(4), (b)(1), Dec. 18, 1989, 103 Stat. 2087, 2088, 2091, 2092; renumbered §3031 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §302(a)(3), Oct. 29, 1992, 106 Stat. 4327; Pub. L. 106-117, title VII, §702(b), Nov. 30, 1999, 113 Stat. 1583; Pub. L. 107-103, title I, §105(c), Dec. 27, 2001, 115 Stat. 983; Pub. L. 107-330, title III, §308(g)(10), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The date of the enactment of the Veterans Millennium Health Care and Benefits Act, referred to in subsection (g), is the date of enactment of Pub. L. 106-117, which was approved Nov. 30, 1999.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107-330 substituted “December 27, 2001” for “the date of the enactment of this paragraph”.

2001—Subsec. (a)(3). Pub. L. 107-103, §105(c)(1), added par. (3).

Subsec. (e)(1). Pub. L. 107-103, §105(c)(2), substituted “section 3011(a)(1)(B), 3011(a)(1)(C), 3012(a)(1)(B), or 3012(a)(1)(C)” for “section 3011(a)(1)(B) or 3012(a)(1)(B)”.

1999—Subsec. (a). Pub. L. 106-117, §702(b)(2), in introductory provisions, substituted “through (g)” for “through (e)” and “subsection (h)” for “subsection (g)”.

Subsecs. (g), (h). Pub. L. 106-117, §702(b)(1), (3), added subsec. (g) and redesignated former subsec. (g) as (h).

1992—Subsec. (e)(1). Pub. L. 102-568 substituted “June 30, 1985” for “October 18, 1984”.

1991—Pub. L. 102-83, §5(a), renumbered section 1431 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3012(a)(1)” for “1412(a)(1)” in two places in par. (1) and “3011(a)(1)(B)” for “1411(a)(1)(B)” in par. (2).

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “3011(a)(1)(B) or 3012(a)(1)(B)” for “1411(a)(1)(B) or 1412(a)(1)(B)” in par. (1) and “3452(a)(1)(B)” for “1652(a)(1)(B)” in par. (2).

Subsec. (f). Pub. L. 102-83, §5(c)(1), substituted “3013” for “1413” in pars. (1) and (2).

Subsec. (g). Pub. L. 102-83, §5(c)(1), substituted “3011(a)(1)(A)(ii)(III)” for “1411(a)(1)(A)(ii)(III)”.

1989—Subsec. (a). Pub. L. 101-237, §420(a)(1)(B), inserted “, and subject to subsection (g),” before “of this section”.

Subsec. (b). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (c). Pub. L. 101-237, §423(b)(1)(B), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (d). Pub. L. 101-237, §423(b)(1)(A), substituted “Secretary” for “Administrator”.

Subsec. (e). Pub. L. 101-237, §420(b), designated existing provisions as par. (1), and substituted “Except as provided in paragraph (2) of this subsection, in” for “In”, and added par. (2).

Subsec. (f)(1), (2). Pub. L. 101-237, §423(a)(4), substituted “, under section 1413,” for “, under this section,”.

Subsec. (g). Pub. L. 101-237, §420(a)(1)(A), added subsec. (g).

1988—Subsec. (a). Pub. L. 100-689 substituted “beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—” and pars. (1) and (2) for “beginning on (1) the date of such individual's last discharge or release from active duty, or (2) the last day on which such individual becomes entitled to such assistance, whichever is later”.

1986—Subsec. (a). Pub. L. 99-576, §§307(b)(1), 321(7)(A), made identical amendments, substituting “(e)” for “(d)”.

Subsec. (b). Pub. L. 99-576, §321(7)(B), struck out “subchapter II or III of” after “program of education under”, substituted “requirement of this chapter” for “requirement of such subchapter”, struck out the cl. (1) designation before “the nature of such individual's discharge” and struck out “or (2) with respect to educational assistance under subchapter II of this chapter, the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions described in section 1411(a)(3) or 1412(a)(3) of this title,” after “appropriate authority,”.

Subsec. (e). Pub. L. 99-576, §307(b)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 99-576, §307(b)(2), redesignated former subsec. (e) as (f).

Subsec. (f)(2). Pub. L. 99-576, §321(7)(C), which directed that subsec. (e)(2) be amended by inserting “not” after “educational institution” was executed to subsec. (f)(2) to reflect the probable intent of Congress and the intervening redesignation of subsec. (e) as (f) by section 307(b)(3) of Pub. L. 99-576.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-568 effective Oct. 28, 1986, see section 302(b) of Pub. L. 102-568, set out as a note under section 3011 of this title.

DELIMITING PERIOD

Pub. L. 106-419, title I, §102(e), Nov. 1, 2000, 114 Stat. 1825, provided that:

“(1) In the case of an individual described in paragraph (2), with respect to the time limitation under section 3031 of title 38, United States Code, for use of eligibility and entitlement of basic educational assistance under chapter 30 of such title, the 10-year period applicable under such section shall begin on the later of—

“(A) the date of the enactment of this Act [Nov. 1, 2000]; or

“(B) the date of the individual's last discharge or release from active duty.

“(2) An individual referred to in paragraph (1) is an individual who—

“(A) before the date of the enactment of this Act, was not eligible for such basic educational assistance by reason of the requirement of a secondary school diploma (or equivalency certificate) as a condition of eligibility for such assistance as in effect on the date preceding the date of the enactment of this Act; and

“(B) becomes entitled to basic educational assistance under section 3011(a)(2), 3012(a)(2), or 3018(b)(4) of title 38, United States Code, by reason of the amendments made by this section [amending sections 3011, 3012, 3017, and 3018 of this title and section 16132 of Title 10, Armed Forces].”

Pub. L. 106-419, title I, §103(e), Nov. 1, 2000, 114 Stat. 1826, provided that:

“(1) In the case of an individual described in paragraph (2), with respect to the time limitation under section 3031 of title 38, United States Code, for use of eligibility and entitlement of basic educational assistance under chapter 30 of such title, the 10-year period applicable under such section shall begin on the later of—

“(A) the date of the enactment of this Act [Nov. 1, 2000]; or

“(B) the date of the individual's last discharge or release from active duty.

“(2) An individual referred to in paragraph (1) is an individual who—

“(A) before the date of the enactment of this Act, was not eligible for basic educational assistance under chapter 30 of such title by reason of the requirement of an initial obligated period of active duty as condition of eligibility for such assistance as in effect on the date preceding the date of the enactment of this Act; and

“(B) on or after such date becomes eligible for such assistance by reason of the amendments made by this section [amending sections 3011 to 3013 and 3015 of this title].”

§ 3032. Limitations on educational assistance for certain individuals

(a) In the case of an individual entitled to educational assistance under this chapter who is pursuing a program of education—

- (1) while on active duty; or
- (2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the least of the following: (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay, or (3) the amount of the charges of

the educational institution elected by the individual under section 3014(b)(1) of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, the amount of the monthly educational assistance allowance payable to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(A) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly educational assistance allowance otherwise payable to such individual under this chapter;

(B) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) of this subsection as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B) of this paragraph, for each month that an individual is paid a monthly educational assistance allowance under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A) of this subsection;

(ii) 55 percent of a month in the case of payments made in accordance with paragraph (1)(B) of this subsection; and

(iii) 35 percent of a month in the case of payments made in accordance with paragraph (1)(C) of this subsection.

(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.

(d)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

(B) For purposes of this paragraph, the term “established charge” means the lesser of—

(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

(ii) the actual charge to the individual for such course or courses.

(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.