§ 3232. Duration; limitations

(a)(1) Except as provided in paragraphs (2) and (3), and subject to paragraph (4), of this subsection, educational assistance benefits shall not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty.

(2)(A) If any eligible veteran was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under paragraph (1) of this subsection because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made in accordance with subparagraph (B) of this paragraph, be granted an extension of the applicable delimiting period for such length of time as the Secretary determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education.

(B) An extension of the delimiting period applicable to an eligible veteran may be granted under subparagraph (A) of this paragraph by reason of the veteran's mental or physical disability only if the veteran submits an application for such extension to the Secretary within one year after (i) the last date of the delimiting period otherwise applicable to the veteran under paragraph (1) of this subsection, or (ii) the termination date of the period of the veteran's mental or physical disability, whichever is later.

(3) When an extension of the applicable delimiting period is granted an eligible veteran under paragraph (2) of this subsection, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the Secretary, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(4) For purposes of paragraph (1) of this subsection, a veteran'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.

(b)(1) In the event that an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the delimiting period applicable to the veteran under subsection (a) of this section and at the end of one year thereafter has not filed a claim for utilizing such entitlement, such eligible veteran is automatically disenrolled.

(2)(A) Any contributions which were made by a veteran disenrolled under paragraph (1) of this subsection and remain in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund.

(B) If no application for refund of contributions under subparagraph (A) of this paragraph is received from a disenrolled veteran within one year after the date the notice referred to in such subparagraph is transmitted to the veteran, it shall be presumed that the veteran's whereabouts is unknown and the funds shall be transferred to the Secretary for payments for entitlement earned under subchapter II of chapter 30.

(c)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of this title is the lesser of $2,000 or the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount paid to such individual for such test by the full-time monthly institutional rate of the educational assistance allowance which, except for paragraph (1), such individual would otherwise be paid under this chapter.

(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual's available entitlement under this chapter.

(d)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under this chapter.

(3) In no event shall payment of educational assistance under this subsection for a test described in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396, § 1632; amended Pub. L. 97–258, § 3(k)(2), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 98–160, title VII, § 702(8), Nov. 21, 1983, 97 Stat 1009; Pub. L. 99–576, title III, § 311, Oct. 28, 1986, 100 Stat. 3272; Pub. L. 101–237, title IV, §§ 420(a)(2), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2087, 2092; Pub. L. 102–16, § 4, Mar. 22, 1991, 105 Stat. 49; renumbered § 3232 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 106(c)(1), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 106–419, title I, § 122(b)(2), Nov. 1, 2000, 114 Stat. 1834; Pub. L. 108–454, title I, § 106(b)(2), Dec. 10, 2004, 118 Stat. 3603.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–454 added subsec. (d).

2000—Subsec. (c). Pub. L. 106–419 added subsec. (c).

1996—Subsec. (b)(2)(B). Pub. L. 104–275 struck out ", for the purposes of section 1322(a) of title 31," after "it shall be presumed" and substituted "to the Sec-

retary for payments for entitlement earned under subchapter II of chapter 30'' for ''as provided in such section''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1632 of this title as this section.

Subsec. (a)(4). Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)(A)(ii)(III)'' for ''1411(a)(1)(A)(ii)(III)''.

Subsec. (b)(1). Pub. L. 102–16 inserted before comma ''and at the end of one year thereafter has not filed a claim for utilizing such entitlement''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 420(a)(2)(B), inserted '', and subject to paragraph (4),'' before ''of this subsection''.

Subsec. (a)(2), (3). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (a)(4). Pub. L. 101–237, § 420(a)(2)(A), added par. (4).

1986—Pub. L. 99–576 amended section generally. Prior to amendment, section read as follows: ''No educational assistance benefits shall be afforded an eligible veteran under this chapter beyond the date of 10 years after such veteran's last discharge or release from active duty. In the event an eligible veteran has not utilized any or all of such veterans' entitlement by the end of the 10-year period, such eligible veteran is automatically disenrolled and any contributions made by such veteran remaining in the fund shall be refunded to the veteran following notice to the veteran and an application by the veteran for such refund. If no application is received within 1 year from date of notice, it will be presumed for the purposes of section 1322(a) of title 31 that the individual's whereabouts is unknown and the funds shall be transferred as directed in such section.''

1983—Pub. L. 98–160 struck out the comma after ''title 31'' and substituted ''such section'' for ''section 1322(a)''.

1982—Pub. L. 97–258 substituted ''section 1322(a) of title 31'' and ''section 1322(a)'' for ''subsection (a) of section 725s of title 31'' and ''the last proviso of that subsection'', respectively.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as a note under section 3032 of this title.

§ 3233. Apprenticeship or other on-job training

(a) Except as provided in subsection (b) of this section, the amount of the monthly benefit payment to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(1) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly benefit payment otherwise payable to such individual under this chapter;

(2) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly benefit payment; and

(3) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly benefit payment.

(b) 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 the monthly benefit payment payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under subsection (a) of this section as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(c) For each month that an individual is paid a monthly benefit payment under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

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

(2) 55 percent of a month in the case of payments made in accordance with subsection (a)(2) of this section; and

(3) 35 percent of a month in the case of payments made in accordance with subsection (a)(3) of this section.

(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.

(Added Pub. L. 99–576, title III, § 310(b)(2), Oct. 28, 1986, 100 Stat. 3271, § 1633; amended Pub. L. 101–237, title IV, § 423(a)(7), Dec. 18, 1989, 103 Stat. 2091; renumbered § 3233, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1633 of this title as this section.

1989—Subsec. (d). Pub. L. 101–237 added subsec. (d).

INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING; POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

Pub. L. 108–454, title I, § 103(b), Dec. 10, 2004, 118 Stat. 3600, provided that: ''For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (a) of section 3233 of title 38, United States Code, shall be applied as if—

''(1) the reference to '75 percent' in paragraph (1) were a reference to '85 percent';

''(2) the reference to '55 percent' in paragraph (2) were a reference to '65 percent'; and

''(3) the reference to '35 percent' in paragraph (3) were a reference to '45 percent'.''

§ 3234. Tutorial assistance

(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 3492 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

(b) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of educational assistance paid to the individual under this section in excess of $600.

(c) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(d) Payments of benefits under this section shall be made—