

Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces for—

(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or

(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

(3) A period of service that is terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2359.)

§ 3312. Educational assistance: duration

(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

(3) PERIOD FOR WHICH PAYMENT NOT CHARGED.—The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2362.)

§ 3313. Educational assistance: amount; payment

(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f)) and is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2), amounts as follows:

(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

(B) A monthly stipend in an amount as follows:

(i) For each month the individual pursues the program of education (other than, in the case of assistance under this section only, a program of education offered through distance learning), a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(I) \$1,000, multiplied by

(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3), amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4), amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5), amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for

the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6), amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7), amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(d) FREQUENCY OF PAYMENT.—

(1) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(2) MONTHLY PAYMENTS.—Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

(3) REGULATIONS.—The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this¹ chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

(2) AMOUNT OF ASSISTANCE.—The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

(A) the established charges which similarly circumstanced nonveterans enrolled in

¹ So in original. Probably should be preceded by "under".

the program of education involved would be required to pay; or

(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1)²

(3) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

(A) The amount equal to the lesser of—

(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

(3) QUARTER, TERM, OR SEMESTER PAYMENTS.—Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

(B) the number of course hours for full-time pursuit of such program of education.

(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A) shall be paid directly to the educational institution concerned.

(h) ESTABLISHED CHARGES DEFINED.—

(1) IN GENERAL.—In this section, the term “established charges”, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

(2) BASIS OF DETERMINATION.—Established charges shall be determined for purposes of this subsection on the following basis:

(A) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

(B) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2363.)

§ 3314. Tutorial assistance

(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492.

(b) CONDITIONS.—

(1) IN GENERAL.—The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492.

(2) CERTIFICATION.—In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

(A) such benefits are essential to correct a deficiency of the individual in such course; and

(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

(c) AMOUNT.—

(1) IN GENERAL.—The amount of benefits described in subsection (a) that are payable under this section may not exceed \$100 per month, for a maximum of 12 months, or until a maximum of \$1,200 is utilized.

(2) AS ADDITIONAL ASSISTANCE.—The amount provided an individual under this subsection is

² So in original. Probably should be followed by a period.