without leave or over leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(b) A commissioned officer of the Regular Corps of the Public Health Service, or an officer of the Reserve Corps of the Public Health Service on active duty, who is absent without leave, forfeits all pay and allowances for the period of that absence, unless it is excused as unavoidable.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 482; Pub. L. 89–718, § 49(a)(1), Nov. 2, 1966, 80 Stat. 1121; Pub. L. 96–513, title V, § 516(15), Dec. 12, 1980, 94 Stat. 2939.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
503(a)	37:33(b) (3d sentence).	Aug. 9, 1946, ch. 931, § 4(b) (3d sentence); restated Aug. 4, 1947, ch. 475, § 1 (3d sentence of 2d par.), 61 Stat. 748.
	37:39 (less last proviso).	Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611.
503(b)	42:210–1(b).	July 1, 1944, ch. 373, § 219(b); added Aug. 9, 1950, ch. 654, § 2 (2d par.), 64 Stat. 426.

In subsections (a) and (b), the words ''for the period of that absence'' are substituted for the words ''during such absence''.

AMENDMENTS

1980—Subsec. (a). Pub. L. 96–513 substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1966—Subsec. (a). Pub. L. 89–718 substituted ''Environmental Science Services Administration'' for ''Coast and Geodetic Survey''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) Pub. L. 96–513, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service, transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out in the Appendix to Title 5, Government Organization and Employees. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 3508(b) of Title 20, Education.

§ 504. Cadets and midshipmen: chapter does not apply to

This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, the Coast Guard Academy, midshipmen at the United States Naval Academy, or cadets or midshipmen serving elsewhere in the armed forces.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
504	37:38 (as applicable to payment for leave).	Aug. 9, 1946, ch. 931, § 10 (as applicable to payment for leave); added Aug. 4, 1947, ch. 475, § 3 (as applicable to payment for leave), 61 Stat. 749; Sept. 2, 1958, Pub. L. 85–861, § 33(d)(2), 72 Stat. 1567.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CHAPTER 10—PAYMENTS TO MISSING PERSONS

Sec.
551. Definitions.
552. Pay and allowances; continuance while in a missing status; limitations.
553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
[554. Repealed.]
555. Secretarial review.
556. Secretarial determinations.
557. Settlement of accounts.
558. Income tax deferment.
559. Benefits for members held as captives.

AMENDMENTS

2011—Pub. L. 112–81, div. A, title VI, § 631(f)(3)(B), Dec. 31, 2011, 125 Stat. 1465, which directed the striking of item 554 from the table of sections at the beginning of chapter 9 was executed by striking item 554 ''Travel and transportation; dependents; household and personal effects; trailers; additional movements; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable'' from the table of sections at the beginning of chapter 10 to reflect the probable intent of Congress.

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1986—Pub. L. 99–399, title VIII, § 806(a)(2), Aug. 27, 1986, 100 Stat. 885, added item 559.

1972—Pub. L. 92–477, § 1(1), Oct. 9, 1972, 86 Stat. 793, inserted ''trailers; additional movements;'' after ''household and personal effects;'' in item 554.

1966—Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 625, added chapter 10 and items 551 to 558.

§ 551. Definitions

In this chapter:

(1) The term ''dependent'', with respect to a member of a uniformed service, means—

(A) his spouse;

(B) his unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) his dependent mother or father;

(D) a dependent designated in official records; and

(E) a person determined to be dependent by the Secretary concerned, or his designee.

(2) The term ''missing status'' means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will.

(3) The term ''pay and allowances'' means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for housing;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 99–145, title XIII, § 1301(g), Nov. 8, 1985, 99 Stat. 737; Pub. L. 100–26, § 8(e)(10), Apr. 21, 1987, 101 Stat. 287; Pub. L. 105–85, div. A, title VI, § 603(d)(1)(D), Nov. 18, 1997, 111 Stat. 1782.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
551(1)	50 App. 1001.	Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143; July 1, 1944, ch. 371, § 1, 58 Stat. 679; Aug. 14, 1964, Pub. L. 88–428, § 1(1), (2), 78 Stat. 437.
551(2)	50 App. 1002(a) (22d through 66th words of 1st sentence, for definition purposes).	Mar. 7, 1942, ch. 166, § 2(a) (22d through 66th and 96th through 120th words of 1st sentence, for definition purposes); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88–428, § 1(3)(A), 78 Stat. 437.
551(3)	50 App. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words ''In this chapter'' are substituted for ''For the purpose of this Act''.

In clause (1), the words ''with respect to a member of a uniformed service'' are inserted for clarity. In clause (1)(A), the word ''lawful'' is omitted as unnecessary in view of the accepted recognition of the fact that the word ''wife'' means a lawful wife. In clause (1)(E), the words ''Secretary concerned, or his designee'' are substituted for ''head of the department concerned, or subordinate designated by him'' to conform to the definition in 37 U.S.C. 101(5). The definitions of ''person'', ''active service'', and ''department'', respectively, in 50 App. U.S.C. 1001(a)(1), (b), and (d) are omitted as unnecessary in view of the definitions of ''member'', ''uniformed services'', ''active service'', and ''Secretary concerned'', in 37 U.S.C. 101(3), (5), (20), and (23).

The definitions in clauses (2) and (3), which do not appear in, but are based on, the source law are created for legislative convenience.

AMENDMENTS

1997—Par. (3)(D). Pub. L. 105–85 substituted ''housing'' for ''quarters''.

1987—Pub. L. 100–26 substituted ''In this chapter:'' for ''In this chapter—'', inserted ''The term'' at beginning of pars. (1) to (3), and substituted period for semicolon at end of par. (1) and period for ''; and'' at end of par. (2).

1985—Par. (1)(A). Pub. L. 99–145 substituted ''spouse'' for ''wife''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–85 effective Jan. 1, 1998, see section 603(e) of Pub. L. 105–85, set out as a note under section 5561 of Title 5, Government Organization and Employees.

§ 552. Pay and allowances; continuance while in a missing status; limitations

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is—

(1) for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled; and

(2) for the period, not to exceed one year, required for his hospitalization and rehabilitation after termination of that status, under regulations prescribed by the Secretaries concerned, with respect to incentive pay, considered to have satisfied the requirements of section 301 of this title so as to entitle him to a continuance of that pay.

However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay. Notwithstanding section 1523 of title 10 or any other provision of law, the promotion of a member while he is in a missing status is fully effective for all purposes.

(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a). Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) ends on the date—

(1) the Secretary concerned receives evidence that the member is dead; or

(2) that his death is prescribed or determined under section 555 of this title or under chapter 76 of title 10.

(c) A member is not entitled to pay and allowances under subsection (a) for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

(e) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to

be credited with pay and allowances under subsection (a).

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 625; amended Pub. L. 92–169, § 1, Nov. 24, 1971, 85 Stat. 489; Pub. L. 92–482, Oct. 12, 1972, 86 Stat. 796; Pub. L. 93–26, § 1, Apr. 27, 1973, 87 Stat. 26; Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title V, § 569(c)(2), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
552(a)	50 App. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88–428, § 1(3), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st and last sentences)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
552(b)	50 App. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
552(c)	50 App. 1002(a) (3d sentence).	
552(d)	50 App. 1002(a) (last sentence).	
	50 App. 1014 (as applicable to § 1002(a) (last sentence)).	
552(e)	50 App. 1006 (2d sentence as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88–428, § 1(5)(B), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the first 22 words are substituted for 50 App. U.S.C. 1002(a) (1st 66 words) to conform to the definitions in 37 U.S.C. 101(3), (18), (20), (22), and (23) and revised section 551(2) of this chapter. The words ''pay and allowances, as defined in this chapter,'' are substituted for the enumeration of pay and allowances in 50 App. U.S.C. 1002(a) (1st sentence) to conform to the definition in revised section 551(3) of this chapter. The words ''on active duty'' are substituted for ''performing full-time active duty'' to conform to the definition in 37 U.S.C. 101(18).

In subsection (b), the first sentence is substituted for 50 App. U.S.C. 1002(a) (1st 21 words of 2d sentence). The words ''or employment'' are omitted as inapplicable to members of the uniformed services. The words ''entitlement to pay and allowances under subsection (a) of this section'' are substituted for ''Such entitlement to pay and allowances'' for clarity. The words ''Notwithstanding the death of a member while in a missing status'' are substituted for 50 App. U.S.C. 1002(a) (2d sentence, less 1st 21 words). The word ''member'' is substituted for ''person'' and the word ''Secretary'' is substituted for ''department'' to conform to the definitions in 37 U.S.C. 101(5) and (23).

In subsection (c), the words ''A member'' are substituted for ''such person''. The words ''under subsection (a) of this section'' are inserted for clarity. The words ''United States'' are substituted for ''Government'' to conform to the style of title 37.

In subsection (d), the words ''A member . . . he . . . in a missing status'' are substituted for ''Persons'', ''such persons'', and the enumerated absent stata to conform to the definitions in 37 U.S.C. 101(23) and revised section 551(2) of this chapter.

In subsection (e), the words ''A member in a missing status'' are substituted for ''a person missing under the conditions specified in section 2 of this Act'' to conform to the definition in revised section 551(2) of this chapter. The words ''under subsection (a) of this section'' are substituted for ''as provided in section 2 of this Act''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, § 569(c)(2)(A), substituted ''for all purposes'' for ''for all purposes, even though the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made''.

Subsec. (b)(2). Pub. L. 104–106, § 569(c)(2)(B), inserted ''or under chapter 76 of title 10'' before period at end.

Subsec. (e). Pub. L. 104–106, § 569(c)(2)(C), inserted ''or under chapter 76 of title 10'' after ''section 555 of this title''.

1991—Subsecs. (b), (c), (e). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)'' wherever appearing.

1973—Subsec. (a). Pub. L. 93–26 provided for full effectiveness for all purposes of promotion of a member while he is in a missing status notwithstanding a determination of the Secretary of death of the member before the making of the promotion.

1972—Subsec. (a). Pub. L. 92–482 designated existing provisions as cl. (1), added cl. (2), and struck out provisions relating to effectiveness of the promotion of a member of the uniformed services while he is in a missing status and the Secretary concerned determines under section 556(b) of this title that the member died before the promotion was made.

1971—Subsec. (a). Pub. L. 92–169 provided that promotion of a member of the uniformed services while he is in a missing status is fully effective for all purposes even though the Secretary concerned determines that the member died before the promotion was made.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2 of Pub. L. 93–26 provided that: ''For the purposes of chapter 13 [§ 1301 et seq.] of title 38, United States Code, this Act [amending this section] becomes effective as of November 24, 1971. For all other purposes this Act becomes effective as of February 28, 1961.''

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–169 effective for the purposes of chapter 13 (§ 1301 et seq.) of Title 38, Veterans' Benefits, on Nov. 24, 1971, and for all other purposes effective as of Feb. 28, 1961, see section 3 of Pub. L. 92–169, set out as a note under section 1302 of Title 38.

§ 553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) Notwithstanding the end of the period for which it was made, an allotment, including one for the purchase of United States savings bonds, made by a member of a uniformed service before he was in a missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

(b) When there is no allotment in effect, or when it is insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize new allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

(c) The total of all allotments from the pay and allowances of a member in a missing status

may not be more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the Secretary concerned.

(d) A premium paid by the United States on insurance issued on the life of a member which is unearned because it covers a period after his death reverts to the appropriation of the department concerned.

(e) Subject to subsections (f) and (g), the Secretary concerned, or his designee, may, when he considers it in the interest of the member, his dependents, or the United States, direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of a member entitled to pay and allowances under section 552 of this title.

(f) When the Secretary concerned officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (a)–(d) may, subject to section 552 of this title, be made until the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10, the Secretary concerned determines pursuant to that chapter, that the member is dead or has returned to the controllable jurisdiction of the department concerned.

(g) A member in a missing status who is continued in that status under section 555 of this title or under chapter 76 of title 10 is entitled to have the payments of allotments authorized by subsections (a)–(d) continued, increased, or initiated.

(h) When the Secretary concerned considers it essential for the well-being and protection of the dependents of a member on active duty (other than a member entitled to pay and allowances under section 552 of this title), he may, with or without the consent, and subject to termination at the request, of the member—

(1) direct the payment of a new allotment from the pay of the member;

(2) increase or decrease the amount of an allotment made by the member; and

(3) continue payment of an allotment of the member which has expired.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 626; amended Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title V, § 569(c)(3), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
553(a)	50 App. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, § 3, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (1st par.), Stat. 1092; July 1, 1944, ch. 371, § 3, 58 Stat. 680.
553(b)	50 App. 1003 (2d sentence, less provisos).	
553(c)	50 App. 1003 (1st proviso of 2d sentence).	
553(d)	50 App. 1003 (2d proviso of 2d sentence)	
553(e)	50 App. 1004.	Mar. 7, 1942, ch. 166, § 4, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (2d par.), 56 Stat. 1093; July 1, 1944, ch. 371, § 4, 58 Stat. 680.

HISTORICAL AND REVISION NOTES—Continued

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
553(f)	50 App. 1006 (1st sentence). 50 App. 1014 (as applicable to § 1006 (1st sentence)).	Mar. 7, 1942, ch. 166, § 6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21; Aug. 14, 1964, Pub. L. 88–428, § 1(5), 78 Stat. 437.
553(g)	50 App. 1006 (2d sentence, as applicable to allotments).	
553(h)	50 App. 1007.	Mar. 7, 1942, ch. 166, § 7, 56 Stat. 145; Aug. 14, 1964, Pub. L. 88–428, § 1(6), 78 Stat. 437. Mar. 7, 1942, ch. 166, § 14 (as applicable to § 6 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''a member of a uniformed service . . . in a missing status . . . he . . . under section 552 of this title'' are substituted for ''any person . . . under section 2 of this Act . . . his absence'', for clarity and to conform to the definition in revised section 551(2) of this chapter. The words ''except as otherwise herein provided'' are omitted as unnecessary.

In subsection (b), the words ''Secretary concerned, he, or his designee,'' are substituted for ''head of the department concerned . . . head of the department concerned, or such subordinate as he may designate'' to conform to the definition in 37 U.S.C. 101(5). The word ''member'' is substituted for ''person'' to conform to the definition in 37 U.S.C. 101(23).

In subsection (c), the words ''in effect'' are omitted as unnecessary. The words ''member in a missing status'' are substituted for ''absent person'' to conform to the definition in revised section 551(2) of this chapter.

In subsection (d), the words ''United States'' are substituted for ''Government'' to conform to the style of title 37. The word ''member'' is substituted for ''person'' to conform to the definition in 37 U.S.C. 101(23).

In subsection (e), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such subordinates as he may designate,'' to conform to the definition in 37 U.S.C. 101(5). The words ''United States'' are substituted for ''Government'' to conform to the style of title 37. The words ''when he considers it'' are substituted for ''When circumstances are deemed to justify such action''. The word ''member'' is substituted for ''person''.

In subsection (f), the words ''When the Secretary concerned officially reports that a member in a missing status'' are substituted for ''When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act''. The words ''the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title . . . until the date the Secretary concerned'' are substituted for ''the payments authorized by section 3 of this Act are, subject to the provisions of section 2 of this Act, authorized to be made for a period not to extend beyond the date of the receipt by the head of the department concerned''. The words ''the member'' are substituted for ''the missing person''.

In subsection (g), the words ''A member in a missing status'' are substituted for ''a person missing under the conditions specified in section 2 of this Act''.

In subsection (h), the words ''Secretary concerned'' are substituted for ''head of the department concerned.'' The words ''a member on active duty'' are substituted for ''of persons in active service'' to conform to the definitions in 37 U.S.C. 101(20) and (23). In clause (2), the words ''heretofore or hereafter'' are omitted as unnecessary.

AMENDMENTS

1996—Subsec. (f). Pub. L. 104–106, § 569(c)(3)(A), substituted ''the date on which, in a case covered by section 555 of this title, the Secretary concerned receives evidence, or, in a case covered by chapter 76 of title 10, the Secretary concerned determines pursuant to that chapter, that'' for ''the date the Secretary concerned receives evidence that''.

Subsec. (g). Pub. L. 104–106, § 569(c)(3)(B), inserted ''or under chapter 76 of title 10'' after ''section 555 of this title''.

1991—Subsecs. (e) to (g). Pub. L. 102–25 struck out ''of this section'' after ''subsections (f) and (g)'' in subsec. (e) and after ''subsections (a)–(d)'' in subsecs. (f) and (g).

[§ 554. Renumbered § 484]

§ 555. Secretarial review

(a) Except as provided in subsection (d), when a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a), it shall include the date death is presumed to have occurred for the purpose of—

(1) ending the crediting of pay and allowances;

(2) settlement of accounts; and

(3) payment of death gratuities.

That date is—

(A) the day after the day on which the 12-month period in a missing status ends; or

(B) if the missing status has been continued under subsection (a), the day determined by the Secretary concerned, or his designee.

(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(d) This section does not apply in a case to which section 1502 of title 10 applies.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 628; amended Pub. L. 102–25, title VII, § 702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 104–106, div. A, title V, § 569(c)(1), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
555(a)	50 App. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1 (3d par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88–428, § 1(4), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1005 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 5 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
555(b)	50 App. 1005 (less 1st and 2d sentences).	
555(c)	50 App. 1009(b) (as applicable to § 1005).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 5); added Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''member of a uniformed service'' are substituted for ''person''. The words ''in a missing status'' and ''in that status'' are substituted for ''absence'' in three places. The words ''Secretary concerned'' are substituted for ''head of the department concerned'' in two places. In the second sentence, the words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009 which is codified in part in revised section 556(a) of this chapter. In clause (1), the words ''member'' and ''his'' are substituted for ''person's'' and ''person'', respectively.

In subsection (b), the words ''under subsection (a) of this section'' are inserted for clarity. In clause (A), the words ''day on which the 12-month period in a missing status ends'' are substituted for ''day of expiration of an absence of twelve months''. In clause (B), the words ''under subsection (a) of this section'' are substituted for ''as hereinbefore authorized''. The words ''Secretary concerned'' are substituted for ''head of the department concerned.'' The words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter.

In subsection (c), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 31 words, as applicable to § 1005). The words ''Secretary concerned'' are substituted for ''head of the department concerned''. The words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words ''departments and agencies of the United States'' are substituted for ''departments of the Government'' in view of the definition of ''department'' in 50 App. U.S.C. 1001(d). The words ''This subsection does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, § 569(c)(1)(A), substituted ''Except as provided in subsection (d), when'' for ''When''.

Subsec. (d). Pub. L. 104–106, § 569(c)(1)(B), added subsec. (d).

1991—Subsec. (b). Pub. L. 102–25 struck out ''of this section'' after ''subsection (a)'' in two places.

§ 556. Secretarial determinations

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

(1) death or finding of death;

(2) the fact of dependency under this chapter;

(3) the fact of dependency for the purpose of paying six months' death gratuities authorized by law;

(4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;

(5) any other status covered by this chapter;

(6) an essential date, including one on which evidence or information is received by the Secretary concerned; and

(7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

Paragraphs (1), (5), (6), and (7) only apply with respect to a case to which section 555 of this title applies.

(b) When the Secretary concerned, in a case to which section 555 of this title applies, receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status is dead, make a finding of death.

(c) The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the sole purpose of determining pay under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section in a case to which section 555 of this title applies is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Added Pub. L. 89–554, §5(b), Sept. 6, 1966, 80 Stat. 629; amended Pub. L. 104–106, div. A, title V, §569(c)(4), Feb. 10, 1996, 110 Stat. 351.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
556(a)	50 App. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, §9(a) (less 5th and last sentences); added July 1, 1944, ch. 371, §5, 58 Stat. 680; Apr. 4, 1953, ch. 17, §1(c), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.
	50 App. 1010.	Mar. 7, 1942, ch. 166, §10, 56 Stat. 145; July 1, 1944, ch. 371, §6, 58 Stat. 681; Aug. 14, 1964, Pub. L. 88–428, §1(7), 78 Stat. 437.
556(b)	50 App. 1009(a) (3d and 4th sentences).	
556(c)	50 App. 1009(a) (6th sentence, less last proviso).	
	50 App. 1014 (as applicable to §1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, §14 (as applicable to §9(a) (1st proviso of 6th sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, §1(e), 67 Stat. 21.
556(d)	50 App. 1009(a) (7th sentence).	
556(e)	50 App. 1009(a) (last proviso of 6th sentence).	
556(f)	50 App. 1009(a) (8th sentence).	
556(g)	50 App. 1009(a) (9th sentence).	
556(h)	50 App. 1009(b) (as applicable to §1009).	Mar. 7, 1942, ch. 166, §9(b) (as applicable to §9); added Aug. 29, 1957, Pub. L. 85–217, §1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such subordinate as he may designate,''. The words ''for the purposes of this Act'' are omitted as unnecessary. The words ''final and'' in 50 App. U.S.C. 1010 are omitted as unnecessary and for consistency with 50 App. U.S.C. 1009(a) (1st sentence). In clause (2), the words ''under this chapter'' are substituted for ''under the provisions of this Act''. In clause (4), the words ''enlisted members of the armed forces'' are substituted for ''enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States'' to conform to the definition in 37 U.S.C. 101(4). In clause (5), the words ''covered by this chapter'' are substituted for ''dealt with by this Act''. In clause (6), the words ''by the Secretary concerned'' are substituted for ''in such department or by the head thereof''. In clause (7), the word ''member'' is substituted for ''person''.

In subsection (b), the words ''Secretary concerned . . . a member of a uniformed service, he shall . . . the

member, act on it'' are substituted for ''any person . . . department concerned, action shall be taken thereon . . . such person''. In the second sentence, the words ''After the end of the 12-month period in a missing status'' are substituted for ''If the twelve months' absence . . . has expired''. The words ''the Secretary concerned, or his designee'' are inserted for clarity. The words ''a member'' are substituted for ''any person''. The words ''missing status'' are substituted for ''missing or other status'' in view of the definition in revised section 551(2) of this chapter. The words ''is dead'' are substituted for ''is no longer alive'' for consistency with references in this section to ''death''.

In subsection (c), the words ''Secretary concerned, or his designee . . . may . . . a member . . . under this chapter'' are substituted for ''head of the department concerned, or by such subordinate as he may designate . . . are authorized to . . . any person . . . under provisions of this Act''. The words ''a member'' are substituted for ''any person''. The words ''captured, beleaguered, or besieged by a hostile force'' are substituted for ''in the hands of a hostile force'' on authority of 50 App. U.S.C. 1014.

In subsection (d), the words ''Secretary concerned, or his designee'' are substituted for ''head of the department concerned, or such subordinate as he may designate''. The words ''under this chapter'' are substituted for ''authorized to be made by this Act''.

In subsection (e), the words ''a member . . . allotment paid under this chapter'' are substituted for ''any person . . . allotments paid pursuant to this Act''. The words ''the member if the Secretary concerned, or his designee . . . the payment . . . the member'' are substituted for ''such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate . . . such person''.

In subsection (f), the words ''may not be collected'' are substituted for ''shall not be subject to collection'' in two places. The word ''member'' is substituted for ''person''.

In subsection (g), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such subordinate as he may designated,''.

In subsection (h), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 33 words, as applicable to § 1009). The words ''Secretary concerned'' are substituted for ''head of the department concerned.'' The words ''or his designee'' are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words ''departments and agencies of the United States'' are substituted for ''departments of the Government'' in view of the definition of ''department'' in 50 App. U.S.C. 1001(b). The words ''This subsection does not entitle'' are substituted for ''*Provided*, That nothing in this section shall be construed as conferring . . . any right''.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–106, § 569(c)(4)(A), inserted concluding provisions.

Subsec. (b). Pub. L. 104–106, § 569(c)(4)(B), inserted '', in a case to which section 555 of this title applies,'' after ''When the Secretary concerned''.

Subsec. (h). Pub. L. 104–106, § 569(c)(4)(C), substituted ''determining pay'' for ''determining status'' and inserted ''in a case to which section 555 of this title applies'' after ''designee, under this section''.

§ 557. Settlement of accounts

(a) The Secretary concerned, or his designee, may settle the account of—

(1) a member of a uniformed service for whose account payments have been made under sections 552, 553, and 555 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officers of the United States in settling the accounts of disbursing officers.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlements.

(c) In the settlement of his accounts, a disbursing officer is entitled, if there is no fraud or criminality by him, to credit for an erroneous payment or overpayment he made in carrying out this chapter, except section 558 of this title. Unless there is fraud or criminality by him, recovery may not be made from a civilian officer or employee or a member of a uniformed service who authorizes a payment under this chapter, except section 558 of this title.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 630; amended Pub. L. 99–145, title XIII, § 1303(b)(11), Nov. 8, 1985, 99 Stat. 741.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
557(a)	50 App. 1011.	Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146.
557(b)	50 App. 1009(a) (5th sentence).	Mar. 7, 1942, ch. 166, § 9(a) (5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Aug. 29, 1957, Pub. L. 85–217, § 1(c), 71 Stat. 492.
557(c)	50 App. 1009(a) (last sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words ''Secretary concerned, or his designee,'' are substituted for ''head of the department concerned, or such person as he may designate,''. The words ''a member of a uniformed service'' are substituted for ''persons''. The words ''United States'' are substituted for ''Government''.

In subsection (c), the words ''in carrying out this chapter, except section 558'' are substituted for ''in carrying out the provisions of this Act, except sections 13, 16, 17, and 18'', since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words ''under this chapter, except section 558'' are substituted for ''under such provisions'' for the reasons stated in the preceding sentence.

AMENDMENTS

1985—Subsec. (c). Pub. L. 99–145 inserted ''of this title'' after ''558'' in two places.

§ 558. Income tax deferment

Notwithstanding any other provision of law, a Federal income tax return of, or the payment of a Federal income tax by, a member of a uniformed service who, at the time the return or payment would otherwise become due, is in a missing status, does not become due until the earlier of the following dates—

(1) the fifteenth day of the third month in which he ceased (except by reason of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, adminis-

trator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of the Internal Revenue Code of 1986 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Added Pub. L. 89–554, § 5(b), Sept. 6, 1966, 80 Stat. 631; amended Pub. L. 96–513, title V, § 516(16), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 100–26, § 8(c), Apr. 21, 1987, 101 Stat. 285.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
558	50 App. 1013.	Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146; Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918; Aug. 14, 1964, Pub. L. 88–428, § 1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words ''in the case of any taxable year beginning after December 31, 1940'' are omitted as unnecessary.

The words ''as defined in section 101(3) and (23) of title 37, United States Code'' are omitted as unnecessary since the revised section is codified in title 37. The words ''in a missing status'' are substituted for ''absent from his duty station under the conditions specified in section 2 of the Act'' to conform to the definition in revised section 551(3) of this chapter and in view of the provisions of revised section 552 establishing the entitlement of a member in a missing status to receive pay and allowances or have them credited to his account. Reference to ''title 26'' is substituted for ''Internal Revenue Code of 1954''.

REFERENCES IN TEXT

Sections 6851, 6861, and 6871 of the Internal Revenue Code of 1986, referred to in text, are classified to sections 6851, 6861, and 6871, respectively, of Title 26, Internal Revenue Code.

AMENDMENTS

1987—Pub. L. 100–26 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'' in last sentence.

1980—Pub. L. 96–513 substituted ''the Internal Revenue Code of 1954'' for ''title 26''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96–513, set out as a note under section 101 of Title 10, Armed Forces.

§ 559. Benefits for members held as captives

(a) In this section:

(1) The term ''captive status'' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after August 27, 1986, monetary payment in respect of such period of captivity.

(2) The term ''former captive'' means a person who, as a member of the uniformed services, was held in a captive status.

(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

(4) Any interest accruing under this subsection on—

(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

(c)(1) Except as provided in paragraph (3), the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

(2) Except as provided in section 802 of the Victims of Terrorism Compensation Act (5 U.S.C. 5569 note), the amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

(3)(A) The President—

(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii), until final disposition of such charge; and

(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

(B) For the purposes of subparagraph (A), a captivity-related offense is an offense that is—

(i) committed by a person while the person is in a captive status; and

(ii) related to the captive status of the person.

(4) A payment under this subsection is in addition to any other amount provided by law.

(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

(6) Any payment made under paragraph (1) that is later denied under paragraph (3)(A)(ii) is a claim of the United States Government for purposes of section 3711 of title 31.

(d) A determination by the President under subsection (a)(1) or (c) is final and is not subject to judicial review.

(Added Pub. L. 99–399, title VIII, § 806(a)(1), Aug. 27, 1986, 100 Stat. 884; amended Pub. L. 100–26, § 8(e)(11), Apr. 21, 1987, 101 Stat. 287; Pub. L. 101–510, div. A, title XIV, § 1484(d)(4), (e)(2), Nov. 5, 1990, 104 Stat. 1717; Pub. L. 102–25, title VII, § 702(b)(1)–(4), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 102–484, div. A, title X, § 1054(a)(6), (c)(2), Oct. 23, 1992, 106 Stat. 2502.)

REFERENCES IN TEXT

Section 802 of the Victims of Terrorism Compensation Act, referred to in subsec. (c)(2), is section 802 of Pub. L. 99–399, which is set out as a note under section 5569 of Title 5, Government Organization and Employees.

AMENDMENTS

1992—Subsec. (c)(3)(A)(i). Pub. L. 102–484, § 1054(c)(2), made technical correction to directory language of Pub. L. 102–25, § 702(b)(4). See 1991 Amendment note below.

Pub. L. 102–484, § 1054(a)(6), made amendment identical to amendment by Pub. L. 102–25, § 702(b)(4). See 1991 Amendment note below.

1991—Subsec. (c)(1). Pub. L. 102–25, § 702(b)(2), struck out ''of this subsection'' after ''paragraph (3)''.

Subsec. (c)(3)(A)(i). Pub. L. 102–25, § 702(b)(4), as amended by Pub. L. 102–484, § 1054(c)(2), struck out ''of this subparagraph'' after ''clause (ii)''.

Subsec. (c)(3)(B). Pub. L. 102–25, § 702(b)(3), struck out ''of this paragraph'' after ''subparagraph (A)''.

Subsec. (c)(6). Pub. L. 102–25, § 702(b)(2), struck out ''of this subsection'' after ''paragraph (1)'' and after ''paragraph (3)(A)(ii)''.

Subsec. (d). Pub. L. 102–25, § 702(b)(1), struck out ''of this section'' after ''(c)''.

1990—Subsec. (a)(1). Pub. L. 101–510, § 1484(d)(4), substituted ''August 27, 1986'' for ''the date of the enactment of the Victims of Terrorism Compensation Act''.

Subsec. (c)(2). Pub. L. 101–510, § 1484(e)(2), inserted ''(5 U.S.C. 5569 note)'' after ''Terrorism Compensation Act''.

1987—Subsec. (a). Pub. L. 100–26 substituted ''In this section:'' for ''In this section—'', inserted ''The term'' at beginning of pars. (1) and (2), and substituted period for ''; and'' at end of par. (1).

EFFECTIVE DATE; PAYMENTS; INTEREST

Section 806(a)(3) of Pub. L. 99–399 provided that:

''(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

''(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

''(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act [Aug. 27, 1986], the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

''(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

''(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.''

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Defense, see section 3 of Ex. Ord. No. 12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

RECALCULATION OF PREVIOUS PAYMENTS

Pub. L. 110–181, div. A, title VI, § 675(b), Jan. 28, 2008, 122 Stat. 187, provided that: ''In the case of any payment of back pay made to or for a person under section 667 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 [Pub. L. 106–398, § 1 [[div. A], title VI, § 667], set out below] before the date of the enactment of this Act [Jan. 28, 2008], the Secretary of the Navy shall—

''(1) recalculate the amount of back pay to which the person is entitled by reason of the amendment made by subsection (a) [amending Pub. L. 106–398, § 1 [[div. A], title VI, § 667], set out below]; and

''(2) if the amount of back pay, as so recalculated, exceeds the amount of back pay so paid, pay the person, or the surviving spouse of the person, an amount equal to the excess.''

BACK PAY FOR MEMBERS OF THE NAVY AND MARINE CORPS SELECTED FOR PROMOTION WHILE INTERNED AS PRISONERS OF WAR DURING WORLD WAR II

Pub. L. 106–398, § 1 [[div. A], title VI, § 667], Oct. 30, 2000, 114 Stat. 1654, 1654A–169, as amended by Pub. L. 110–181, div. A, title VI, § 675(a), Jan. 28, 2008, 122 Stat. 186, provided that:

''(a) ENTITLEMENT OF FORMER PRISONERS OF WAR.—Upon receipt of a claim made in accordance with this section, the Secretary of the Navy shall pay, from any appropriation currently available to the Secretary, back pay to any person who, by reason of being interned as a prisoner of war while serving as a member of the Navy or the Marine Corps during World War II, was not available to accept a promotion for which the person had been selected.

''(b) PAYMENT TO SURVIVING SPOUSE OF DECEASED FORMER MEMBER.—In the case of a person described in subsection (a) who is deceased, the back pay for that person under this section shall be paid to the living surviving spouse of that person, if any. If there is no living surviving spouse, no claim may be paid under this section with respect to that person.

''(c) AMOUNT OF BACK PAY.—(1) The amount of back pay payable to or for a person described in subsection (a) is the amount equal to the difference between—

''(A) the total amount of basic pay that would have been paid to that person for service in the Navy or the Marine Corps for the back-pay computation period if the person had been promoted to the grade to which selected to be promoted; and

''(B) the total amount of basic pay that was actually paid to or for that person for such service for the back-pay computation period.

''(2) For purposes of paragraph (1), the back-pay computation period for a person covered by subsection (a) is the period—

''(A) beginning on the date (as determined by the Secretary of the Navy) as of when that person's promotion would have been effective for pay purposes but for the person's internment as a prisoner of war; and

''(B) ending on the earliest of—

''(i) the date of the person's discharge or release from active duty;

''(ii) the date on which the person's promotion to that grade in fact became effective for pay purposes; and

''(iii) the end of World War II.

''(3) The amount determined for a person under paragraph (1) shall be increased to reflect increases in cost of living since the basic pay referred to in paragraph (1)(B) was paid to or for that person, calculated on the basis of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

''(d) TIME LIMITATIONS.—(1) To be eligible for a payment under this section, a claimant must file a claim for such payment with the Secretary of the Navy within two years after the effective date of the regulations prescribed to carry out this section.

''(2) Not later than 18 months after receiving a claim for payment under this section, the Secretary shall determine the eligibility of the claimant for payment of the claim. Subject to subsection (f), if the Secretary determines that the claimant is eligible for the payment, the Secretary shall promptly pay the claim.

''(e) REGULATIONS.—Not later than six months after the date of the enactment of this Act [Oct. 30, 2000], the Secretary of the Navy shall prescribe regulations to carry out this section. Such regulations shall include procedures by which persons may submit claims for payment under this section.

''(f) LIMITATION ON DISBURSEMENT.—(1) Notwithstanding any power of attorney, assignment of interest, contract, or other agreement, the actual disbursement of a payment of back pay under this section may be made only to a person who is eligible for the payment under subsection (a) or (b).

''(2) In the case of a claim approved for payment but not disbursed as a result of paragraph (1), the Secretary shall hold the funds in trust for the person in an interest bearing account until such time as the person makes an election under such paragraph.

''(g) ATTORNEY FEES.—Notwithstanding any contract, the representative of a person may not receive, for services rendered in connection with the claim of, or with respect to, a person under this section, more than 10 percent of the amount of a payment made under this section on that claim.

''(h) OUTREACH.—The Secretary of the Navy shall take such actions as are necessary to ensure that the benefits and eligibility for benefits under this section are widely publicized by means designed to provide actual notice of the availability of the benefits in a timely manner to the maximum number of eligible persons practicable.

''(i) DEFINITION.—In this section, the term 'World War II' has the meaning given that term in section 101(8) of title 38, United States Code.''

PAYMENT TO INDIVIDUALS HELD IN CAPTIVE STATUS BETWEEN NOVEMBER 4, 1979, AND JANUARY 21, 1981

For payment for individuals in the uniformed services referred to in subsec. (c) of this section held in captive status between Nov. 4, 1979, and Jan. 21, 1981, see section 802 of Pub. L. 99–399, set out as a note under section 5569 of Title 5, Government Organization and Employees.

CHAPTER 11—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

Sec.
601. Applicability.
602. Payments: designation of person to receive amounts due.
603. Regulations.
604. Determination of Secretary final.

AMENDMENTS

1990—Pub. L. 101–510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

§ 601. Applicability

This chapter applies to—

(1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and

(2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87–649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	*Source (U.S. Code)*	*Source (Statutes at Large)*
601	37:351.	June 21, 1950, ch. 342, § 1, 64 Stat. 249.

The words ''on active duty (other than for training)'' are substituted for the words ''on the active . . . list'' to conform to longstanding administrative construction, and because there is no ''active list'' in the case of many of the uniformed services named, but only for certain regular component of those services, e.g., the ''Regular Army'' and the ''Regular Air Force''. The words ''a retired list of that service'' are substituted for the words ''retired list'', since there is more than one retired list for many of the services named. (See sections 1376, 3966, and 8966 of title 10, for example.) The words ''members of the Reserve components of the respective services entitled to Federal pay either on the active or any retired list of said services'' are omitted as covered by clause (1), since members of the reserve components are members of the uniformed services concerned. The word ''transferred'' is omitted as surplusage.

§ 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member's use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

(1) Department of the Army;

(2) Department of the Navy;

(3) Department of the Air Force;

(4) Department of Health and Human Services; or

(5) Department of Veterans Affairs.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is designated under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or ac-